

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 - - - - -X  
4 UNITED STATES OF AMERICA, : 17-CR-434 (ARR)  
5 Plaintiff, :  
6 -against- :  
7 JOSÉ MIGUEL MELENDEZ-ROJAS, :  
8 also known as "Gueramex," :  
9 "Gueracasa," and "José :  
10 Melendez Perez"; JOSÉ : United States Courthouse  
11 OSVALDO MELENDEZ-ROJAS, : Brooklyn, New York  
12 ROSALIO MELENDEZ-ROJAS, also :  
13 known as "Leonel," "Wacho," :  
14 and "El Guacho"; FRANCISCO :  
15 MELENDEZ-PEREZ, also known :  
16 as "Paco," and "el Mojarra"; :  
17 and ABEL ROMERO-MELENDEZ, :  
18 also known as "La Borrega" :  
19 and "Borrego" :  
20 Defendants. : Thursday, March 5, 2020  
21 : 9:30 a.m.  
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P R O C E E D I N G S

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(In open court; outside the presence of the jury.)

THE COURT: All right. Are all the lawyers here,  
Mr. Dunn?

MR. DUNN: It looks like it.

THE COURT: Okay.

MR. DUNN: Your Honor, I have an application about  
the timing of the trial. My understanding from the  
Government that they believe they'll finish their case a  
week from today. I just would note, and I think this is  
going to continue throughout the trial, is that  
the Government takes most of the day and then we get up  
around 4:00 and the jury stays until about 6:00, and I'm  
concerned that they may feel that we're the ones that are  
extending the trial or they may hold that against us. And  
all I'm saying is now because it looks very good that we'll  
finish their case by Thursday, I would just make the  
application that we work every day until 5:00.

THE COURT: I'm going to wait and see.

MS. KELLMAN: Sounds very judicial.

MR. DUNN: Thank you, Your Honor.

(Pause in proceedings.)

MR. GOLD: Judge, do I have two minutes or are

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1 they coming out?

2 THE COURT: I'm sorry?

3 MR. GOLD: Is the jury coming out now or do I have  
4 two minutes?

5 THE COURT: Would you repeat that.

6 MR. GOLD: I'm sorry. Is the jury coming out now  
7 or do I have two minutes?

8 THE COURT: Is the jury here?

9 THE COURTROOM DEPUTY: Yes.

10 THE COURT: Is everybody ready?

11 MR. HUESTON: Just one moment, Your Honor. Thank  
12 you.

13 (Pause in proceedings.)

14 MR. HUESTON: Thank you for your patience, Judge.

15 THE COURT: Yes, why don't we have the witness on  
16 the stand?

17 (The witness approaches the stand.)

18 MS. ARGO: The interpreter has a correction from  
19 something yesterday and she asks that she could state --

20 THE COURT: Yes, when the jury comes in.

21 THE COURTROOM DEPUTY: Can the interpreters please  
22 raise their right hand.

23 (The interpreters are sworn.)

24 THE COURTROOM DEPUTY: Please state your name for  
25 the record.

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1 INTERPRETER SONIA BERAH: Sonia Berah.

2 INTERPRETER ELIZABETH CARUSO: Elizabeth Caruso.

3 INTERPRETER ROSSANA TESTINO-BURKE: Rossana

4 Testino-Burke.

5 INTERPRETER GABRIEL MITRE: Gabriel Mitre.

6 THE COURTROOM DEPUTY: Thank you.

7 THE COURT: We're going to get the jury.

8 (Pause in proceedings.)

9 THE COURTROOM DEPUTY: All rise.

10 (Jury enters the courtroom.)

11 (Jury present.)

12 THE COURT: Everyone be seated, please.

13 Good morning, ladies and gentlemen.

14 THE JURY: Good morning.

15 THE COURTROOM DEPUTY: I just want to remind you  
16 you're still under oath.

17 THE WITNESS: Thank you.

18 THE COURT: Mr. Golub.

19 MS. ARGO: Your Honor, we wanted to --

20 THE COURT: Oh, yes. One thing.

21 Go ahead.

22 INTERPRETER SONIA BERAH: Your Honor, at the end

23 of the day there was a term "matron of honor," and after

24 some research, a more accurate term would be "Bible bearer."

25 THE COURT: Thank you.

Maria Rosalba - Cross - Golub

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1   **M A R I A   R O S A L B A,**

2           called as a witness, having been previously duly

3           sworn, was examined and testified as follows:

4   CROSS-EXAMINATION (CONTINUED)

5   BY MR. GOLUB:

6   Q     Maria, before I started speaking to you, asking you  
7         questions yesterday, had we ever spoken before?

8   A     No.

9   Q     But you've spoken to agents of the Government many  
10        times; is that correct?

11   A     Yes.

12   Q     How many meetings have you had with the agents?

13   A     I don't know exactly. I've met several times.

14   Q     Was it more than five?

15   A     Yes.

16   Q     Was it more than ten?

17   A     Yes.

18   Q     How long did these meetings go on for?

19   A     Sometimes 3, 4 hours.

20   Q     Sometimes meetings of 3 or 4 hours; is that correct?

21   A     They didn't all last the same amount of time, but yes,  
22         approximately.

23   Q     Were people taking notes?

24   A     There were people with notebooks. I didn't see whether  
25         or not they were taking notes.

Maria Rosalba - Cross - Golub

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1 Q Were any of the people at the Government table in these  
2 meetings?

3 A Yes.

4 Q Where there other agents as well?

5 A Yes.

6 Q In total, how many people have you spoken to?

7 A At the meetings, well, three or four people. But they  
8 weren't always the same people.

9 Q How many different people have you spoken to?

10 A I don't remember. I don't remember exactly how many.

11 Q More than ten?

12 A Maybe, yes.

13 Q In addition you've also spoken to people at the MEXICAN  
14 CONSULATE; is that correct?

15 A Yes.

16 Q And you've had a number of meetings there as well; is  
17 that correct?

18 A I just met with them on one occasion.

19 Q And did you talk to them about an asylum application  
20 that you wanted to make in the United States?

21 A I didn't speak to them about anything regarding  
22 immigration. They just came to hear my story.

23 Q Okay. And you have other people, attorneys that are  
24 helping you now working for a permit and things; is that  
25 correct? Work permit, among other things?

Maria Rosalba - Cross - Golub

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1 A The association that I work with provided a lawyer and  
2 she is the one who submitted the application for my work  
3 permit.

4 Q And is she also seeking a -- an asylum petition for  
5 you?

6 A I don't know.

7 Q Well, isn't it a fact that you're making a claim that  
8 you were a victim of sex trafficking and on that basis you  
9 should not be deported back to Mexico; isn't that correct?

10 A I don't know. She just helps me with my work  
11 authorization.

12 Q Now, going back to a time when you first started to  
13 live with Mr. José Osvaldo. You indicated that he told you  
14 that it would be good for you to exercise; is that correct?

15 A He would make me workout.

16 Q Well, we -- we saw some photos that you identified,  
17 including one of them without his shirt on, I guess I would  
18 call it like a muscle picture. Do you remember that photo?

19 A Those photographs were in the United States.

20 Q Right.

21 A Yes.

22 Q But he clearly was very fit; would you agree?

23 A Yes.

24 Q Yeah.

25 He exercised a lot; is that correct?



Maria Rosalba - Cross - Golub

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1 A He always worked out because he didn't do anything  
2 else.

3 Q Did he workout in Mexico while you were there with him?

4 A He worked out at his house.

5 Q Okay. And so he wanted you to workout and he also  
6 wanted you to eat healthy; is that correct?

7 A He would tell me what to eat because he didn't want me  
8 to be ugly and fat.

9 Q Well, didn't you tell me -- excuse me.

10 Didn't you tell the Government and the jury that  
11 when he met you he told you that he thought you were  
12 beautiful and that he liked your body, you had a nice body?

13 A Obviously, because he was trying to make me fall in  
14 love with him.

15 Q Well, that was the same body you had when you lived  
16 with him a month later; am I right?

17 A Well, obviously. I mean, obviously if somebody tells  
18 you that you're ugly and horrible nobody's going to like  
19 that. Who is going to like a person who offends you like  
20 that?

21 Q That's not my question to you. My question is, you had  
22 the same body when he met you as you did a month or two  
23 later when you were living with him; am I right?

24 A Yes.

25 Q Now, did you share a bed with him every night?

Maria Rosalba - Cross - Golub

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1 A Yes.

2 Q And you had regular sexual -- regular sexual relations;  
3 is that correct?

4 A We had sex. It wasn't always when I wanted to.

5 Q But it wasn't as though he said, I'm repelled by you  
6 and he never had sex with you and he kicked you out of the  
7 bed and said sleep on the floor; nothing like that ever  
8 happened; is that correct?

9 A When we slept in the same bed, he would make me. He  
10 would force me to take off my clothes. He wanted to have  
11 sex with me. He didn't let me sleep on the floor.

12 Q Okay. So it doesn't sound like somebody that was  
13 repelled by your appearance if he wanted you to take your  
14 clothes off so he could see you naked and have sex with you;  
15 would you agree with me?

16 A He just wanted to have sex.

17 Q With you, not with somebody else?

18 A I don't know if he had sex with other people. He would  
19 always leave, lock -- leave the door --

20 INTERPRETER ELIZABETH CARUSO: Correction.

21 A He would always leave at night, lock me in. I don't  
22 know where he went at night.

23 Q I thought you said he spent the night with you and  
24 slept in the same bed with you?

25 A Of course. He would come in at 2:00 or 3:00 in the

Maria Rosalba - Cross - Golub

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1 morning.

2 Q Okay. Now, you testified yesterday on direct  
3 examination regarding going to Mexico City; do you remember  
4 that?

5 A Yes.

6 Q And I thought your testimony was that you got there,  
7 you had no idea what -- what you were doing there, and then  
8 you slowly started to understand in the last few moments  
9 before you met the lady that was apparently supposed to help  
10 you meet customers; was that your testimony?

11 A Yes.

12 Q You remember being interviewed by the MEXICAN  
13 CONSULATE. I asked you that before. Do you recall that?

14 A Yes.

15 Q And do you remember you said that you told them about  
16 what had happened to you, all your experiences?

17 A Yes.

18 Q And did you include in that telling them about what  
19 happened with you in Mexico City?

20 A I don't remember everything I told them.

21 Q Well, do you recall talking to them about the fact that  
22 you had conversations before you had went to Mexico City  
23 talking about prostitution and that women could make a lot  
24 of money doing that; do you remember that?

25 A I don't remember that.

Maria Rosalba - Cross - Golub

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1 Q Well, do you remember that you said that you rode over  
2 with, among other people, a female with a slim build, lady  
3 blond hair, fair skin, about 23 years old; do you remember  
4 telling them that?

5 A I remember the girl.

6 Q And do you remember having a conversation with her in  
7 the car ride over about as a prostitute you could make very  
8 good money? Do you remember -- do you remember telling the  
9 people at the MEXICAN CONSULATE that?

10 A I told them -- I didn't tell them I spoke to that girl,  
11 because she was with the person who was driving. She was  
12 sitting up front, I couldn't have any conversation with her.

13 Q Did you -- did you describe her as the driver, she was  
14 his compadre -- rather the woman was -- the driver was her  
15 compadre?

16 A They would refer to each other, the man driving,  
17 included, as compadres, good friend.

18 Q All right.

19 And you don't -- you -- you didn't tell the people  
20 at the MEXICAN CONSULATE that she turned around and spoke to  
21 you and talked about the money you could make as a  
22 prostitute. You don't recall telling them that at the  
23 MEXICAN CONSULATE?

24 A The girl was asleep.

25 Q You had a 15-page declaration regarding your -- your

Maria Rosalba - Cross - Golub

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1 meeting with them; do you remember that?

2 A I don't know how many pages it was.

3 Q Well, do you remember -- do you remember a long  
4 document if I show -- if I showed you something, maybe it  
5 would refresh your recollection?

6 THE COURT: This is not going to be shown to the  
7 jury.

8 INTERPRETER ELIZABETH CARUSO: Your Honor, by the  
9 interpreter, if the attorney is going to read from a long  
10 document, do you think we could have a copy.

11 THE COURT: We're going to do it on the Elmo.

12 MR. GOLUB: Okay.

13 Q I'm showing you what has been previously marked as  
14 Government's Exhibit 3500 Maria 12-S.

15 Do you recognize what I'm showing you?

16 A Yes.

17 Q This is a document that was created with regard to your  
18 meeting at the MEXICAN CONSULATE; is that correct?

19 A Yes.

20 Q On March 10th, 2016. I think it says so on the first  
21 page; is that correct?

22 A The date is there. I don't remember the date, but it  
23 did happen.

24 Q Okay. And the document runs 15 pages, single spaced.  
25 Do you see the page -- I'm turning to Page 15; is that

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1 correct? Do you recall that now?

2 A Yes.

3 Q And among the people present at that meeting was there  
4 a Juan Carlos Rodriguez Muñoz who was a *segundo secretario*?

5 A There were lots of people there. I don't remember  
6 everybody's name.

7 Q All right. But there were at least four people there,  
8 three of whom, plus you, signed this document; is that  
9 correct?

10 A Yes.

11 Q So this document was created based upon the interview  
12 that you -- you gave to the MEXICAN CONSULATE on that date;  
13 is that correct?

14 A Yes.

15 Q And you reviewed the document, which was prepared in  
16 Spanish; is that correct?

17 A I didn't really review it, because my daughter was with  
18 me. She was very young, so I did not review it carefully.

19 Q Was your daughter with you in the meeting or did  
20 someone else stay with her while you met with these agents  
21 of the Mexican Government?

22 A She came with me to the MEXICAN CONSULATE. She was  
23 with me for the whole time because it was around March and  
24 so she was about a month old. I was breastfeeding her, so  
25 she was with me the whole time.

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1 Q Okay. And then did they give you breaks so you could  
2 breastfeed her and take care of her and nobody helped you  
3 with the baby?

4 MS. ARG0: Your Honor.

5 THE COURT: Yes. Can we -- I don't know how  
6 that's relevant.

7 Could you just move on and get to the point.

8 Q My point is that you met with them for how many hours  
9 on that day?

10 A For approximately 11 hours.

11 Q I assume there were breaks taken?

12 A Of course. My daughter would cry and I had to take  
13 care of her so that she would be comfortable.

14 Q Okay. And they'd let you do that?

15 A Yes.

16 Q And then you would continue afterwards?

17 A Yes.

18 Q And I assume you stopped to eat?

19 A Yes.

20 Q And you stopped to use the bathroom?

21 A Yes.

22 Q And at the end, they prepared this 16-page document in  
23 Spanish which they gave you to look at and review; is that  
24 correct?

25 A Of course I signed because I wanted to go home, I

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1 wanted to rest.

2 Q Well, you were there because you were there to get  
3 their help; is that correct? You gave a statement about  
4 what you say had happened to you?

5 A I was giving my statement. I was telling my truth.  
6 What I remembered at that moment.

7 Q So my question to you is: It was important to you that  
8 you get that done as accurately as possible?

9 A Yes.

10 Q It wasn't the police, these were people there to help  
11 you?

12 A There were police from the MEXICAN CONSULATE.

13 Q But they weren't there to arrest you; is that correct?

14 A No, they weren't there to arrest me.

15 Q No. They were there to help you; is that right?

16 A Yes.

17 Q So it was important to make the statement as accurate  
18 as possible; is that right?

19 A Yes.

20 Q And the statement at the end of it you swore that  
21 everything you said in there was the truth before you signed  
22 and you -- you swore to the truth of it before you signed  
23 it; isn't that true?

24 A Yes.

25 Q So in that statement when you said that on the ride



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1 over to Mexico City this blond, tall, slim woman was talking  
2 to you about the benefits of the money you could make in  
3 prostitution, that's what you had said; isn't that correct?

4 A Well, perhaps if I said it, I don't remember it  
5 exactly.

6 Q All right.

7 The point is that before you ever got to Mexico  
8 City, you knew what you were going there for. Would you  
9 agree?

10 A The girl explained -- she said what we had to do when  
11 we were in Mexico City. Once we were in Mexico City, she  
12 took me to the hotel room and told me.

13 Q Didn't you say that she told you that on the ride over?

14 A I don't understand your question.

15 Q The question is, this is not things that she told you  
16 after you arrived in Mexico City. These were things that  
17 you were told on your ride to Mexico City before you ever  
18 got there. That's correct?

19 A I don't remember actually how things happened, how  
20 things transpired.

21 Q You had brought the clothing that you were going to  
22 wear in Mexico City before you even got in the car for the  
23 ride to Mexico City; isn't that true?

24 A José Osvaldo went to buy that clothing.

25 Q Right. And you had a discussion with him about the

Maria Rosalba - Cross - Golub

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1 fact that you were going to work as a prostitute in Mexico  
2 City? This is before you ever made the trip.

3 MS. ARG0: Your Honor --

4 THE COURT: Yes, where does that come from?

5 MS. ARG0: I can certainly explain at sidebar, if  
6 you would like.

7 THE COURT: Yes.

8 (Continued on the next page.)  
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Sidebar Conference

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1 (The following occurred at sidebar.)

2 THE COURT: Okay. Just one second.

3 MS. ARGO: Your Honor, the witness has already  
4 testified that she does not recall. She has testified that  
5 she had a one-month old child with her at the time that the  
6 statement was signed, and that she did not review it  
7 carefully. She has already testified that as to her  
8 recollection, she was not told until Mexico City.

9 These are you all things that Mr. Golub has  
10 already elicited. He is now asking the same questions over  
11 and over again in an attempt to wear the witness down and to  
12 get her to agree. It is improper.

13 MR. GOLUB: Judge, I respectfully disagree with  
14 learned counsel.

15 I have a witness statement from her, and that  
16 everything I'm saying here comes from the written statement  
17 that I have now confirmed with her that they had an 11-hour  
18 meeting. It was prepared in Spanish. She review it, to the  
19 extent that she did. She swore to the truth of it. And now  
20 I'm taking portions of that to refresh your recollection as  
21 to what she said four years ago.

22 MS. ARGO: But she told you.

23 THE COURT: Okay. Can you do this a little -- you  
24 know, have the interpreter translate it and say, Does that  
25 refresh your recollection --

Sidebar Conference

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1 MR. GOLUB: Fine.

2 THE COURT: -- and then move on?

3 MR. GOLUB: Okay.

4 THE COURT: Okay?

5 MR. GOLUB: But the problem is, Judge, I go to  
6 English. I don't know specifically in Spanish where it is  
7 because I don't speak Spanish.

8 THE COURT: Well, why don't you tell the  
9 translator where the lines are that you want read.

10 MR. GOLUB: Okay.

11 THE COURT: Okay?

12 MR. GOLUB: Fine.

13 THE COURT: Or she also has her computer there  
14 that she can see. Put it under the Elmo and point to the  
15 line you want her to read and ask her the question, Does  
16 that refresh your recollection.

17 MR. GOLUB: Fine. Thank you.

18 (Continued on the next page.)  
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Maria Rosalba - Cross - Golub

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1 (Sidebar ends; in open court.)

2 MR. GOLUB: All right. This is for the  
3 interpreter. Starting with Page 7 or --

4 INTERPRETER SONIA BERAH: The interpreter needs to  
5 hear you also.

6 MR. GOLUB: All right.

7 INTERPRETER SONIA BERAH: Thank you.

8 THE COURT: Page 3500 Maria 12 of the English  
9 version.

10 INTERPRETER ELIZABETH CARUSO: English version?

11 INTERPRETER SONIA BERAH: I only have a Spanish  
12 version.

13 MR. GOLUB: I put it up on the Elmo.

14 INTERPRETER SONIA BERAH: Oh, okay.

15 MR. GOLUB: Are you all set?

16 INTERPRETER SONIA BERAH: Can you find -- is it  
17 Page 12. /

18 MR. GOLUB: Page 7.

19 INTERPRETER SONIA BERAH: Page 7.

20 MR. GOLUB: It's Maria 12-007, double 07.

21 INTERPRETER SONIA BERAH: Thank you.

22 MR. GOLUB: José Osvaldo, end of first line.

23 (Interpreter reading in Spanish.)

24 Q Do you see that?

25 A Yes.

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1 Q All right. So José Osvaldo got angry asking me if I --

2 THE COURT: Don't read from it. Ask her to read  
3 it -- ask the interpreter to interpret it or ask her to read  
4 it in Spanish.

5 MR. GOLUB: All right. Judge, it would be easier  
6 if I could just point to the interpreter for a second, point  
7 out the line to read. Can I do that?

8 THE COURT: Yes.

9 (Pause in proceedings.)

10 THE COURT: Would you just do it from the Elmo?  
11 Put it on the screen and point it out, the interpreter can  
12 see it.

13 INTERPRETER SONIA BERAH: Your Honor, the  
14 interpreter requests that we are able to read from the  
15 Spanish so that we're not interpreting from English.

16 THE COURT: That's fine.

17 So if you could find the line in the Spanish  
18 version and read the Spanish version.

19 MS. ARG0: Your Honor, actually can we just have a  
20 sidebar on this?

21 THE COURT: Yes.

22 MS. HAJJAR: I'm sorry.

23 (Continued on the next page.)  
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Maria Rosalba - Cross - Golub

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1 (The following occurred at sidebar.)

2 MS. ARG0: So Your Honor, one of the issues here  
3 might well be the fact that this document was translated  
4 from Spanish into English and very, very poorly.

5 THE COURT: Oh.

6 MS. ARG0: And in fact, that the issue is going to  
7 be that the Spanish version may well reflect something  
8 different than what the English version reflects.

9 And then Mr. Golub wants to read the English  
10 version back to her. It makes sense actually to translate  
11 that back into Spanish for her, and what she --

12 THE COURT: If that's what the problem is going to  
13 be --

14 MS. ARG0: Very well may say that that is  
15 different than what it says in Spanish.

16 THE COURT: Okay. That's fine.

17 MS. ARG0: She should compare -- she should  
18 actually probably compare.

19 THE COURT: Don't read it out loud. Have the  
20 translator translate --

21 MS. ARG0: Just point to the trans --

22 MR. GOLUB: That's what I would like to do. I  
23 would like to get the translator to --

24 MS. ARG0: Just point to it on the Elmo.

25 THE COURT: Right.

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1 MS. ARG0: She'll read it.

2 MR. GOLUB: All right.

3 THE COURT: Yeah.

4 (Continued on the next page.)

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1 (Sidebar ends; in open court.)

2 THE COURT: I'm going to ask the translator, I  
3 know this is unusual, to translate from the English version  
4 rather than from the Spanish.

5 INTERPRETER ELIZABETH CARUSO: Thank you.

6 MR. GOLUB: Starting from where I'm pointing.

7 INTERPRETER ELIZABETH CARUSO: Here?

8 MR. GOLUB: From the first line.

9 INTERPRETER SONIA BERAH:

10 (Interpreter translating to the witness.)

11 MR. GOLUB: Okay.

12 Q Does that refresh your recollection as to the sequence  
13 of events leading up to you going to Mexico City to be a  
14 prostitute?

15 A Yes, it refreshes my memory.

16 Q All right. So the sequence was that you and José spoke  
17 about this first, that prostitutes can make good money; and  
18 you agreed that you would do that, and that afterwards --

19 MR. GOLUB: Why don't you translate that.

20 Q -- and then after that, you went -- or he went and  
21 bought some lingerie for you, and after that you drove down  
22 to Mexico City and during the trip down there the slim blond  
23 woman was describing to you the good money you could make in  
24 prostitution. And all those events took place before you  
25 ever got to Mexico City; isn't that correct?

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1 A He threatened for me to go. Before we went he  
2 threatened me. It was true, he knew where my family lived  
3 and he could hurt them.

4 Q Well, that's -- that's not what I'm asking you.

5 What I'm asking you is did you -- did you know and  
6 did you agree to be a prostitute before you ever even got in  
7 the car to go to Mexico City.

8 That's a yes-or-no question.

9 A I can't answer with a yes or no. I want to answer your  
10 question, but not with just a yes or no.

11 THE COURT: Go ahead and answer the question.

12 A I was young. I didn't know Mexico City.

13 MR. GOLUB: Move to strike, not responsive,  
14 Your Honor.

15 THE COURT: I'm going to wait and hear the answer.  
16 If it's not responsive I'll strike it.

17 A He had threatened me. He knew where my family lived.  
18 He could hurt me any way he wanted to. And any way you look  
19 at it, I had to agree, I was afraid.

20 Q My --

21 A I was afraid for myself, I was afraid for my family.

22 MR. GOLUB: Okay.

23 THE COURT: Okay.

24 A I agreed.

25 THE COURT: One second.

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1           We're going to take about a ten-second break and  
2           the court reporter's going to help me.

3           (Pause in proceedings.)

4       Q     My point is, that you agreed that you were going to do  
5           this before you ever left for Mexico City; isn't that  
6           correct?

7           THE COURT: Asked and answered.

8           MR. GOLUB: Okay.

9       Q     Yesterday you testified that you were surprised and  
10           only slowly started to realize what was happening after you  
11           were literally at the marketplace; do you recall testifying  
12           about that?

13           THE COURT: Okay. Don't answer the question.

14           (Continued on the next page.)

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Sidebar Conference

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1 (The following occurred at sidebar.)

2 MS. ARGO: The witness has already testified that  
3 her recollection has been refreshed. Mr. Golub made the  
4 point that, perhaps, she learned of this before they left  
5 for Mexico City. She explained what had happened. The  
6 point has been made. I'm not really sure what --

7 MR. GOLUB: Well, the point that I'm --

8 THE COURT: There's something about recycling that  
9 you tend to do --

10 MR. GOLUB: No. The point was --

11 THE COURT: -- when you make your point one way,  
12 and then you --

13 MR. GOLUB: No. The point is --

14 THE COURT: -- decide to then make it another way.

15 MR. GOLUB: No. The point is that she lied  
16 yesterday, and that's the necessary -- I want the jury to  
17 get the point.

18 MS. ARGO: No, her recollection -- she did not  
19 lie. She just told you she didn't remember, and then you  
20 showed her a document and it refreshed her recollection.

21 MR. GOLUB: No. She made this whole thing up  
22 about, Oh, it slowly dawned on me. She's clearly lying,  
23 Judge, and the jury has to know that. I mean, her  
24 credibility is the only issue in this case.

25 THE COURT: I know that her credibility is

Sidebar Conference

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1 important. But you do circle back. You try to make the  
2 same point over and over and over again starting at a  
3 different place just going back, and your cross-examination  
4 could go all day this way.

5 MR. GOLUB: All right, Judge.

6 THE COURT: Please.

7 MS. KELLMAN: May we just ask one question?

8 MR. GOLD: Your Honor, I appreciate what you're  
9 saying, and I was guilty of it myself. But I don't want you  
10 to keep in mind, this --

11 THE COURT: I know the credibility is very  
12 important.

13 MR. GOLD: But beyond that. Each of the witnesses  
14 tend to give speeches rather than answers, and they go well  
15 beyond any question that's asked either on direct or on  
16 cross.

17 THE COURT: Well --

18 MR. GOLD: Okay. That's the way they talk.

19 THE COURT: -- they tend to explain their answers.

20 MR. GOLD: Well, and that's what encourages  
21 follow-up questions, which tend to be repetitious because  
22 you have to get back to where you started to make the point  
23 that you're trying to make.

24 THE COURT: Well --

25 MR. GOLD: So I appreciate what you're saying, but

Sidebar Conference

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1 I want you to understand what our difficulty is with these  
2 witnesses.

3 MS. KASSNER: Your Honor, if I may very briefly?  
4 Some of the questions are narratives, as well.

5 THE COURT: Yes, they really go on and on and on.

6 MR. GOLUB: Judge, could I just offer this  
7 portion, that she has adopted now as a prior inconsistent  
8 statement?

9 MS. ARGO: Your Honor, she said -- no. She said  
10 that she couldn't recall; that her recollection was first  
11 that the woman was asleep. He refreshed her recollection  
12 with the document. She said, I do recall this now, and then  
13 she explained the circumstances under which it occurred.  
14 There is nothing else to do.

15 THE COURT: That was my understanding of the  
16 testimony.

17 MS. ARGO: There is nothing else to impeach.

18 THE COURT: I know you want it to be different --

19 MR. GOLUB: Well --

20 THE COURT: -- but that was my understanding of  
21 the testimony.

22 MR. GOLUB: -- Judge --

23 MS. ARGO: You've refreshed her recollection, and  
24 that was entirely appropriate, and it had the effect that  
25 you requested or wanted.

Sidebar Conference

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1 MR. GOLUB: All right. Then I will move on,  
2 Judge.

3 (Continued on the next page.)  
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Maria Rosalba - Cross - Golub

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1 (Sidebar ends; in open court.)

2 THE COURT: Don't answer the last question.

3 MR. GOLUB: Judge, I think maybe we need a break  
4 for the witness because it looks like she's a little  
5 distraught.

6 THE COURT: We'll take a few minutes if she wants,  
7 but I don't think she needs a break.

8 MR. GOLUB: All right.

9 THE COURT: You just let us know when you're ready  
10 and we'll start back. All right?

11 (Pause in proceedings.)

12 THE WITNESS: I'm okay. We can continue.

13 BY MR. GOLUB:

14 Q Now, after you arrived in Mexico City you said you went  
15 to market and you met with the older lady; do you remember  
16 that?

17 A Yes.

18 Q And she looked at your paperwork and she saw that you  
19 were from, what was it, Tenancingo?

20 A The Tenancingo address was on the ISE card that I had.

21 Q Right.

22 And when she saw that, she said, No more girls  
23 from Tenancingo, so you're not going to work here.

24 A Yes, because she told me I looked young and she didn't  
25 want any trouble.



Maria Rosalba - Cross - Golub

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1 Q But you were of legal age at that point, weren't you?

2 A Of course I was. But I looked young.

3 Q So you didn't -- you didn't get to work there; is that  
4 correct?

5 A That's correct.

6 Q And sometime later you made several attempts to go to  
7 the United States that we talked about yesterday; do you  
8 remember that?

9 A Yes.

10 Q And wasn't it, in fact, you were going there to try and  
11 do what you were unsuccessful in doing in Mexico City was to  
12 work as a prostitute because it was a way to make good  
13 money?

14 A I came to the United States. I was going to go to the  
15 United States because José Osvaldo told me we were going to  
16 be going to the United States and I was going to work in an  
17 African market.

18 Q So you were going to work as a prostitute in Mexico  
19 City but now in the United States you were going to go work  
20 in an African market; is that what you're telling the jury?

21 A José Osvaldo said we were going to work in an African  
22 market, and that was where his brother worked.

23 Q This is even though you had all these clothing, the  
24 lingerie and other things, that you were going to use to  
25 work as a prostitute in Mexico City; is that right?

Maria Rosalba - Cross - Golub

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1 THE COURT: Sustained.

2 Q When you get to the United States, and you start to  
3 work as a prostitute, you were given a cell phone?

4 A Yes.

5 Q And you were away from José Osvaldo what, 18 or  
6 19 hours a day, on a 24-hour day?

7 A I was with a delivery guy.

8 Q You weren't with José Osvaldo?

9 A José Osvaldo would get in touch with me through the  
10 delivery guys.

11 Q That's not my question --

12 A He knew, they know José Osvaldo.

13 Q That wasn't my question to you.

14 My question was, how many hours a day were you not  
15 seeing José Osvaldo? For example --

16 THE COURT: Well --

17 MR. GOLUB: Fine.

18 THE COURT: Just break it.

19 MR. GOLUB: Yeah, that's fine, judge.

20 A From 9:00 until 3:00 in the morning. I would see him  
21 when I finished my first shift.

22 Q And the first shift you said was from 9:00 a.m. to  
23 6:00 p.m.; is that what you said?

24 A Yes, that's correct.

25 Q So that was nine hours that you weren't with him. And

Maria Rosalba - Cross - Golub

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1 the second shift started at, what, 7:00 p.m. and that's --

2 A Yes.

3 Q And that you said went to 3:00 a.m.?

4 A Yes.

5 Q So that's another, what, eight hours?

6 A Yes.

7 Q So that's 17 hours out of 18 hours you weren't with  
8 him; is that right?

9 A Yes.

10 Q And you had the cell phone?

11 A I had a cell phone.

12 Q And you could make calls on that cell phone?

13 A José Osvaldo told me I couldn't use that phone to make  
14 any kind of calls. Because he told me his brother -- well,  
15 it was theirs it had limited time. They would know all of  
16 the calls I made on it and everything I did with it.

17 Q You've used cell phones since you've lived in Mexico  
18 City -- or excuse me, back in Mexico, rather; is that  
19 correct?

20 A Of course. I didn't know -- well, many in Mexico  
21 people say, you know, in the United States, the way it  
22 works -- well, people here can't call Mexico, they just  
23 can't call Mexico because the calls are very expensive. So  
24 it wasn't easy for us to call Mexico. It wasn't -- we  
25 didn't know how to dial -- I don't know to call.

Maria Rosalba - Cross - Golub

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1 Q You didn't know how to make a call on a phone?

2 A No. Because we -- if I just dialled the number, the  
3 call wouldn't go through. We needed other numbers, which I  
4 didn't know.

5 Q Now the cell phone you had, I assume it had a camera on  
6 it?

7 A It was a small blue phone.

8 Q Did it have a camera?

9 A I don't remember.

10 Q When you took a picture of the Western Union receipt,  
11 did you take it with your phone camera?

12 A No.

13 Q What did you take it with?

14 A Veronica had a different phone.

15 Q Hers had a camera?

16 A It did have a camera. And then she sent that photo to  
17 me as a text message.

18 Q And you knew how to receive it that way?

19 A It was a text message.

20 Q Okay.

21 Now, you say there came a time when José Osvaldo  
22 went back to Mexico; is that correct?

23 A Yes.

24 Q Before he went back to Mexico, you and he had a fight;  
25 isn't that correct?

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1 A Yes.

2 Q And in that fight, you confronted him with the fact  
3 that it was a Western Union receipt that you saw showing a  
4 woman sending money apparently to him; isn't that correct?

5 A He had sent money to a woman.

6 Q Okay. This is the receipt that had the photo of --  
7 that was texted to you by Veronica; is that right?

8 A Yes.

9 Q And you got angry at him?

10 A Yes.

11 Q And you were so angry, you told him, Get out of this  
12 apartment. I don't want to see you. Get out of here; isn't  
13 that correct?

14 A I was working in New Jersey. I went to work that day.  
15 And I told him everything, but our argument was over the  
16 phone.

17 Q You threw him out. You told him to get out of the  
18 apartment; isn't that correct?

19 A I don't remember.

20 (Continued on the next page.)

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1 (Continuing.)

2 MR. GOLUB: All right. Judge, we'll do this the  
3 same way again. I'm going to refer to page 14 of 3500 Maria  
4 12, page 14. I have my English version.

5 THE COURT: Okay. Why don't you put your English  
6 version under the ELMO just for --

7 MR. GOLUB: I'm going to highlight the part. Just  
8 give me a second, Judge.

9 (Pause.)

10 MR. GOLUB: Okay. Can you see it?

11 THE INTERPRETER: Mr. Golub, this is the same  
12 exhibit from before?

13 MR. GOLUB: It is. This is page 14. I'm  
14 highlighting the first bracket. Can you see that?

15 THE INTERPRETER: Yes.

16 MR. GOLUB: Here's the second bracket.

17 (Interpreter reading document.)

18 A In that version, it says that it was October of 2012, but  
19 at that moment, I was no longer working as a sex worker. I no  
20 longer lived in Queens. I don't know who translated this  
21 page.

22 Q It's the translation from the same Mexican Consulate, the  
23 same 15-page document that you signed under oath. Let's  
24 assume that the year is wrong, it's not October 2012, it's  
25 October 2011. Does the rest of the version there refresh your

1 recollection that you threw José Osvaldo out of the apartment  
2 after confronting him about the Western Union wire?

3 MS. ARGO: Your Honor, we are now saying we are  
4 going to assume certain things are true or not.

5 THE COURT: Sidebar.

6 (Sidebar.)

7 (Continued on next page.)

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*Sidebar*

593

1 (Sidebar conference held on the record out of the  
2 hearing of the jury.)

3 MS. ARG0: Your Honor, what Mr. Golub is trying to  
4 do is have the witness adopt the document that he has now  
5 conceded is inaccurate. She's made clear she was not with him  
6 in October 2012, and she says I don't know who translated this  
7 page --

8 THE COURT: I would think if what she's -- there's  
9 clearly inaccuracy in the document. By the same token, the  
10 document may or may not refresh her recollection as to whether  
11 she said something, whether she told Osvaldo to get out of the  
12 apartment. The answer probably should be no, but I don't  
13 know.

14 MS. ARG0: The only issue we're having is that  
15 Mr. Golub is saying on one hand this is a sworn statement,  
16 this is true; and on the other hand --

17 THE COURT: I know --

18 MR. GOLUB: If it's a typo in the document, Judge --

19 THE COURT: I understand. What I'm responding to is  
20 something that wasn't said, which is your explanation to the  
21 jury, this is the same document that was translated by the  
22 embassy. I mean, you --

23 MR. GOLUB: She asked me what was this. I'm telling  
24 you where it came from.

25 THE COURT: I'm telling you, you are the lawyer, you



*Sidebar*

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1 don't answer these questions. Okay?

2 MR. GOLUB: Okay. Judge.

3 (Sidebar end.)

4 (Continued on following page.)

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1 (In open court.)

2 THE COURT: Okay. We will take a five-minute break.

3 (Jury exits.)

4 (A recess in the proceedings was taken.)

5 MR. HUESTON: Your Honor, there's just one issue I  
6 wanted to address, and I talked to the Government about it  
7 yesterday and today.

8 There appears to be, I believe, a lawyer for the  
9 witness who is here, and yesterday there was a time, you know,  
10 where she made a gesture that Mr. Cistaro saw, it was a thumbs  
11 up, and there was another time where she sort of was making --  
12 moving or gesticulating while the witness was here in the  
13 presence -- with the jury. I don't know if the jury saw  
14 anything, but I have been, sort of --

15 THE COURT: Are you saying that the lawyer was  
16 gesticulating?

17 MR. HUESTON: Yes. I'm not casting any negative  
18 aspect. It could be emotional. I don't know what the basis  
19 is. I've asked the prosecutors to talk with her about that.  
20 She's an officer of the court and she should comport herself  
21 appropriately, but I do think that -- I've spoken to counsel  
22 on our side, and they do think it's appropriate I make a  
23 record now. We did talk to the prosecutor yesterday about it,  
24 and then again at 10:45 this morning it happened again, and  
25 so -- and this may happen again with other witnesses coming in

1 with lawyers who are advocates for them, and just to make --  
2 to make sure this doesn't happen with any other witnesses. I  
3 just think it's time to, sort of, tackle it.

4 THE COURT: That's fine.

5 MS. ARG0: Your Honor, we did, in fact -- we did  
6 speak to the lawyer for Ms. Maria Rosalba yesterday. I  
7 believe the concern was that at one point during some portion  
8 of the proceedings -- I think it was a sidebar -- she gave a  
9 small thumbs up. The jury was still here, but she was  
10 obviously way back in the gallery; however, I told her that,  
11 you know, that's not okay; it's not appropriate when the jury  
12 is still present. I just spoke with -- all of us from the  
13 Government just spoke with her again. She apologies to the  
14 Court. She didn't realize she was doing anything, she -- it  
15 was subconscious. If she was doing something, she didn't  
16 realize that she was, and she certainly didn't want to do  
17 anything to -- you know, do anything inappropriate, and that's  
18 not what her intention was at all.

19 I will make a record now also of another issue with  
20 the witness.

21 Maria Rosalba is obviously -- this is very  
22 stressful, very nerve-racking and nervous for her. She,  
23 unfortunately, threw up this morning. She's now in the  
24 bathroom throwing up again. This is just an incredibly  
25 traumatic experience for her, and so I think part of what's

1 going on with her lawyer is that she just, you know,  
2 subconsciously is --

3 THE COURT: I appreciate what's happening --

4 MS. ARG0: -- feeling very strongly about the  
5 situation right now, but I would ask that we give the witness  
6 a few more minutes --

7 THE COURT: Of course. Whatever she needs.

8 MS. ARG0: -- just because it is incredibly  
9 emotional and traumatic for her.

10 MR. GOLUB: Judge, I was unaware that the lawyer was  
11 present in the courtroom, and I think an inquiry needs to be  
12 made -- I don't know how you want to handle it. Has she  
13 consulted with the lawyer with regard to her testimony  
14 during -- during my cross-examination? They had a break  
15 overnight, for example, or even now. I'm concerned about  
16 that.

17 MS. ARG0: Your Honor, she's allowed to consult with  
18 her own attorney. She's just not allowed to consult with us,  
19 and we certainly have not spoken to her at all, and so we  
20 would think that that's entirely inappropriate. Her own  
21 attorney who is representing her with respect to her  
22 immigration issues and all of those things that she testified  
23 to previously can certainly speak with her and be there to  
24 support her in this situation. We are not her attorneys, and  
25 we have not spoken to her while she's on cross-examination.

1 MR. GOLUB: Judge, the problem I have with that is  
2 that although they are not -- the lawyer is not a prosecutor,  
3 the problem I have is that this testimony that she's giving  
4 here, which is helping the prosecution, is also being used to  
5 try to attempt to help her with regard to immigration status,  
6 and so really no lawyer should be talking to her during my  
7 cross-examination of the witness.

8 MS. ARGO: I'm afraid --

9 THE COURT: I know the Government shouldn't, but I  
10 have never heard that someone could not consult with their own  
11 independent attorney. I'm not aware of that.

12 MR. GOLUB: In this case, where they're almost  
13 acting in concert, Judge, because what we are talking about --

14 THE COURT: I really don't know. I don't know who  
15 this person is. Is this the lady from the Sisters Society?

16 MS. ARGO: My Sisters' Place is the nonprofit  
17 organization with which this attorney works. She --

18 THE COURT: This is not somebody the Government  
19 selected.

20 MS. ARGO: No, Your Honor, absolutely not. And, in  
21 fact -- that's absolutely correct. And whenever her attorney  
22 is doing with regards to assisting her in any processes behind  
23 the scenes, certainly the Government -- actually, I'm not  
24 aware of and don't -- have not inquired deeply into what she  
25 is doing to assist her.

1 MR. GOLUB: Wasn't it a fact that, perhaps I had it  
2 wrong, that the Government made a referral to have her get one  
3 of these attorneys?

4 MS. ARG0: No. We have referred her to the  
5 nonprofit itself.

6 THE COURT: The nonprofit. And the nonprofit  
7 independently decided that they would get her a lawyer.

8 MS. ARG0: That's correct, Your Honor.

9 THE COURT: This is not a lawyer under Government  
10 control. If you want to show me some authority that says  
11 somehow that's appropriate, you are welcome to do so. I know  
12 you can't do it now, but if you find it before she's gone --

13 MR. GOLUB: Clearly, that's not happening, Judge.

14 (Pause.)

15 THE COURT: We are just finalizing the jury  
16 instructions and since we have a moment, is it everyone's  
17 understanding that in the final instructions I will substitute  
18 the first name for the Jane Doe?

19 MS. HAJJAR: Yes, Your Honor.

20 MR. DUNN: Yes, Your Honor.

21 MR. GOLD: Yes, Your Honor.

22 MR. HUESTON: Yes, Your Honor.

23 THE COURT: Okay. I'm also going to include an  
24 instruction on demonstrative evidence, and as I understand it,  
25 so much of the cross-examination thus far has been consent, so

*Proceedings*

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1 I do think it would be appropriate to put in the request made  
2 by the Government with respect to minors, that minors cannot  
3 consent.

4 MS. HAJJAR: Yes. Thank you, Judge.

5 THE COURT: The language is: "Whether or not a  
6 minor consented to engage in a commercial sex act is  
7 irrelevant, as the consent or voluntary participation of a  
8 minor is not a defense to the charge."

9 MR. GOLD: I'm sorry, Judge, can you repeat that?

10 THE COURT: Yes.

11 "Whether or not a minor consented to engage in a  
12 commercial sex act is irrelevant, as the consent or voluntary  
13 participation of a minor is not a defense to the charge."

14 There was also an instruction about searches. I  
15 assume that there will be testimony from witnesses later about  
16 the search of the apartment and what was found.

17 MS. HAJJAR: Yes, Your Honor.

18 THE COURT: Okay.

19 MS. ARGO: Your Honor, is there any way we can have  
20 a sense from Mr. Golub how much longer this is going to go?

21 THE COURT: Yes.

22 Mr. Golub, how much longer is it going to be?

23 MR. GOLUB: I'm winding down, but Mr. Gold is next.

24 THE COURT: Mr. Gold, you will have time now to weed  
25 out what Mr. Golub has done. How long do you think that you

*Proceedings*

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1 will be on different subjects?

2 MR. GOLD: Again, assuming I get responsive answers,  
3 I imagine ten, fifteen minutes.

4 THE COURT: Okay.

5 And is anybody -- I guess Mr. Dunn --

6 MR. DUNN: No, Your Honor.

7 THE COURT: You're not going to cross.

8 MS. KELLMAN: If I do, Your Honor, it will be under  
9 five minutes.

10 MS. ARGO: I think we can bring the witness in now.

11 THE COURT: Is she down?

12 THE COURTROOM DEPUTY: She's coming in.

13 THE COURT: Okay.

14 MS. ARGO: She's coming in, I think.

15 MS. KELLMAN: Your Honor, did you plan to say  
16 something to the attorney or not?

17 THE COURT: I'm sorry?

18 MS. KELLMAN: Did you plan to say something --

19 THE COURT: No.

20 One other thing is there's no need for an  
21 instruction on transcripts -- am I correct? -- in the charge?

22 MS. HAJJAR: I think that's right, Your Honor.

23 THE COURT: Okay.

24 (Witness resumes the stand.)

25 THE COURT: All right. We'll get the jury.



1 THE COURTROOM DEPUTY: All rise.

2 (Jury enters.)

3 THE COURT: Please be seated.

4 Mr. Golub.

5 BY MR. GOLUB:

6 Q We were talking about whether or not you had a  
7 recollection shortly before Mr. José Osvaldo went to Mexico in  
8 late 2011, that you had a fight with him and you threw him out  
9 of the apartment.

10 A Yes.

11 Q So there was such a fight and you did throw him out of  
12 the apartment.

13 A I spoke to him on the phone and I told him that when he  
14 came back I no longer wanted him in the apartment.

15 Q And he got out of the apartment; is that right?

16 A He left the apartment and he took my papers.

17 Q After he left, you went and -- you went to work in New  
18 Jersey for a week as a prostitute?

19 A I was working in New Jersey.

20 Q And you did that -- you went there after this fight; is  
21 that correct?

22 A I -- I was already working in New Jersey. I was staying  
23 in New Jersey.

24 Q So you weren't staying in the apartment.

25 A No.

*Mariá Rosalbá - Cross - Mr. Golub*

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1 Q When you came back after working in New Jersey, was he in  
2 the apartment?

3 A He had left the apartment.

4 Q Because you had thrown him out; is that right? You said  
5 you didn't want to be with him anymore.

6 A He left the apartment and he took -- when I came back  
7 from New Jersey, he was already outside with his bag of  
8 clothing.

9 Q He moved -- he moved out.

10 A He didn't move out because he was there.

11 Q He had his belongings with him; they weren't in the  
12 apartment anymore.

13 A He left his belongings in the apartment, he just took  
14 certain things, and he took my papers to...

15 Q And you were back in the apartment and he wasn't there.

16 A He was -- when I returned from New Jersey, he was there.

17 Q Outside the apartment, not inside.

18 A The apartment had several floors. When I returned, he  
19 was inside the entrance door. He was inside the entrance  
20 door, not exactly in the apartment.

21 Q Not in the apartment part where you live with him.

22 A He was on the ground floor waiting.

23 Q Okay.

24 And he shortly thereafter went to Mexico; is that  
25 right?

*Mariá Rosalbá - Cross - Mr. Golub*

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1 A Yes.

2 Q And he asked you to come with him. In fact, you both  
3 went to get passports from the Mexican Consulate; isn't that  
4 right?

5 A He told me that we should go -- he told me that we should  
6 both return to Mexico and he would return my papers to me.

7 Q Did you go with him to Mexico?

8 A No, I didn't go to Mexico.

9 Q So he went and you stayed here in the United States.

10 A I stayed in the United States because I told him that I  
11 was resigned to work as a prostitute; that he should leave me  
12 here, and then he gave me -- he would give me my papers in  
13 return for me working for him.

14 Q So he left and you are in the apartment.

15 A I don't know understand your question. Are you referring  
16 to that he left for Mexico?

17 Q Yes. And you're here in the apartment in Queens.

18 A Yes.

19 Q Living by yourself?

20 A I had neighbors, but yes, practically alone.

21 Q None of his brothers moved in with you to keep an eye on  
22 you and watch you and make sure that you're not talking to  
23 anybody.

24 A All of his brothers left for Mexico. He told me that I  
25 had to give money to Jarocho. If not, Jarocho would come to

*Mariá Rosalbá - Cross - Mr. Golub*

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1 get it.

2 Q You wired money, you said, to him; is that right?

3 A I sent it to him, or I would give it to Jarocho and  
4 Jarocho would send it to him.

5 Q So you sent money to him through Western Union?

6 A Western Union -- maybe I don't recall. I did send him  
7 some -- could have been Western Union.

8 Q You wired money to Mexico.

9 A Yes.

10 Q You knew how to do that, right?

11 A He had taught me. I had to send it under the name of  
12 Nancy Alcantara, he told me that if I sent it under my own  
13 name, I was going to be arrested and the police were going to  
14 lock me up.

15 Q But you sent money on other occasions to your own family  
16 during the year that you were in the United States with him;  
17 isn't that true?

18 A He did it.

19 Q To your family.

20 A He would send them a hundred dollars.

21 Q You sent money regularly to your family during the time  
22 that you were working as a prostitute --

23 MS. ARG0: Your Honor, asked and answered.

24 Q -- in the --

25 THE COURT: That's not what she just said.

1 Q Did you do it every week, have money sent to your family?

2 THE COURT: I'm sorry, it's the same thing. She  
3 just said that Osvaldo was the person who sent money to her  
4 family. If you want to clarify whether or not she also sent  
5 money, then go ahead and do it.

6 MR. GOLUB: Okay.

7 BY MR. GOLUB:

8 Q Did you also personally send money to your family?

9 A No. He would send it in the name of Nancy Alcantara,  
10 anybody's name. He would send it to them. They -- my family  
11 knew that I was in the United States, and he did it so they  
12 wouldn't think -- so they would think I was okay.

13 Q And this was done on a regular basis; is that correct?

14 A I don't remember.

15 Q After you left, you said that you called your family; is  
16 that correct?

17 A Do you mean when he went to Mexico?

18 Q After he left you and went to Mexico, you called your  
19 family; is that correct?

20 A Yes.

21 Q And that's the same -- you used that same phone that  
22 you've had for the whole time you were working; isn't that  
23 right?

24 A I don't remember. Sometimes I would -- the delivery guys  
25 would lend me their phones, they would help me. They helped

*Mariá Rosalbá - Cross - Mr. Golub*

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1 me dial the numbers that you had to dial so I could call  
2 Mexico from the United States.

3 Q So after the first time they showed you, you knew how to  
4 dial Mexico by yourself; isn't that right?

5 A They would dial the number, I would talk, and then a  
6 little while after that, I learned.

7 Q So you did know how to call Mexico on your own phone.

8 A Afterwards I did.

9 Q All right. Incidentally, you indicated that you had a  
10 lawyer that was helping you with your immigration situation;  
11 is that right?

12 A The lawyer helped me after the agents came to my house.

13 Q That lawyer has been helping you ever since.

14 A The association is helping me. I've had several lawyers.

15 Q And has one of those lawyers been here with you in court  
16 for the last two days?

17 THE COURT: Yes.

18 Sidebar.

19 (Sidebar.)

20 (Continued on next page.)

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*Sidebar*

608

1 (Sidebar conference held on the record out of the  
2 hearing of the jury.)

3 THE COURT: What are you trying to do, Mr. Golub?

4 MR. GOLUB: I want to bring out from her that she  
5 consulted with her lawyer during the course of her testimony  
6 here.

7 THE COURT: I said no. I said no. I said no to  
8 you.

9 MR. GOLUB: Excuse me. What you said was I can't  
10 make a quid pro quo that she's with the Government.

11 THE COURT: No. I'm telling you you cannot talk to  
12 her about her speaking with her lawyer. If you want to, if  
13 you want to bring that out, I want to see some cases first.

14 MR. GOLUB: Judge, I will withdraw the question.

15 THE COURT: You go ahead and withdraw it.

16 MR. GOLUB: I misunderstood the ruling.

17 MS. HAJJAR: Your Honor, one more thing.

18 I understand Mr. Golub probably does not -- is not  
19 doing it intentionally, but by walking up towards the witness,  
20 this witness is terrified.

21 MS. ARGO: So scared.

22 THE COURT: Could you just stay behind --

23 MR. GOLUB: I'm sorry.

24 THE COURT: I understand. This was not intentional,  
25 and you are not an intimidating person.

*Sidebar*

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1 MS. ARG0: You probably don't realize you are doing  
2 it. We are not saying you are doing it intentionally.

3 MR. GOLUB: Fine.

4 (Sidebar end.)

5 (Continued on following page.)  
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*Maria Rosalba - Cross - Mr. Gold*

610

1 (In open court.)

2 MR. GOLUB: Your Honor, I have no further questions.

3 THE COURT: Okay.

4 Mr. Gold.

5 MR. GOLD: Thank you.

6 CROSS-EXAMINATION

7 BY MR. GOLD:

8 Q When you met José Osvaldo, how old were you?

9 A Nineteen.

10 Q And you were living at home at that time, correct?

11 A Yes, that's correct.

12 Q And you recall working, correct?

13 A Yes, that's correct.

14 Q And you introduced Delia to Francisco, correct?

15 A Yes, that's correct.

16 Q How old was Delia at that time?

17 A I don't know how old she was.

18 Q Did you ever find out at any time during the months you  
19 lived together how old she was?

20 A She looked young, approximately 15 or 16 years old. I  
21 don't know exactly how old she was.

22 Q My question is: You never asked and she never told you  
23 how old she was; is that what you're saying?

24 A Yes, that's correct.

25 Q And how long had you known her at that point?

*Maria Rosalba - Cross - Mr. Gold*

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1 MR. GOLD: Your Honor, if I may, my question was  
2 simply how long she had known her at that point. I don't know  
3 what she's saying, but whatever it is, it's a lot longer than  
4 how long she knew her.

5 THE COURT: Okay.

6 Would you repeat the question? Exactly what was  
7 your question?

8 How long had you known her at that point?

9 THE WITNESS: Approximately three months.

10 BY MR. GOLD:

11 Q And you knew her from work, correct?

12 A Yes, that's correct.

13 Q And when you introduced her to Francisco, how old was  
14 Francisco?

15 A I don't know.

16 Q Was he as old as José Osvaldo?

17 A No.

18 Q And the idea of you introducing Delia to Francisco was  
19 for the two of them to get together and become a couple as you  
20 and José Osvaldo did, correct?

21 A We introduced them at the time because José Osvaldo --  
22 well, he didn't want Francisco to have to wait in the car, get  
23 bored. He wanted to meet somebody, he didn't have a  
24 girlfriend -- at least that's what he said -- so they could  
25 become friends, become boyfriend/girlfriend, just to talk.

*Maria Rosalba - Cross - Mr. Gold*

612

1 Q Okay.

2 And so you chose Delia as what you thought was an  
3 appropriate person to introduce to Francisco.

4 A No. That was her option. I told her I wanted to  
5 introduce her to my boyfriend's friend.

6 Q Was it your intention to introduce somebody to Francisco  
7 who was approximately his age?

8 A I didn't know how old they were. She was just my  
9 co-worker.

10 Q So when you were deciding who to introduce to Francisco,  
11 you didn't consider introducing the person who was of a  
12 similar age?

13 MS. ARG0: I think the same question has been asked  
14 multiple times.

15 THE COURT: I will permit this question.

16 Go ahead.

17 A No.

18 Q Okay.

19 So after you introduced Delia to Francisco, did, in  
20 fact, they become a couple?

21 A Yes.

22 Q And you saw them kissing and hugging and acting the way a  
23 loving couple acts with one another.

24 A José Osvaldo and I were always separate from them. They  
25 would go off and talk, whatever they did, they did it separate

*Maria Rosalba - Cross - Mr. Gold*

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1 from us. I don't know what they did. We were somewhere else.

2 Q Did you ever see them kiss?

3 A No.

4 Q You never saw them hug?

5 A When they would say good-bye to each other.

6 Q You never saw them holding hands?

7 A I don't remember that.

8 Q Then how do you know they were a couple?

9 A Delia told me she had a boyfriend.

10 Q And the boyfriend was Francisco, correct?

11 A Yes, that's correct.

12 Q Okay.

13 Now, I believe you said that at some time in  
14 September of 2010, you attended a party while you were still  
15 in Mexico.

16 Do you recall testifying to that effect?

17 A Yes, I remember.

18 Q And I believe you said that was the party you saw José  
19 Osvaldo kissing another woman, correct?

20 A Yes, that's correct.

21 Q And I believe you said you had gone to the party with  
22 Delia but she had left, correct?

23 A No.

24 Q Did you go to the party with her -- with Delia?

25 A I went to the party with José Osvaldo.

*Denise Parisi, RPR, CRR*  
*Official Court Reporter*

*Maria Rosalba - Cross - Mr. Gold*

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1 Q Was --

2 A And -- and --

3 Q Was Delia at the party?

4 A No.

5 Q So you didn't testify yesterday that Delia was at this  
6 party?

7 A You are confusing me. Which party are you talking about?

8 Q I'm talking -- my question was: Was Delia at the party  
9 at which you saw José Osvaldo kissing another woman?

10 A Delia was not at that party.

11 Q So if you said that yesterday, that was in error?

12 A I didn't make any -- say anything in error.

13 MS. ARG0: If we can have a quick sidebar.

14 THE COURT: It's time to move on.

15 MR. GOLD: I'm about to.

16 THE COURT: Okay.

17 BY MR. GOLD:

18 Q After you moved into José Osvaldo's home, how long after  
19 that did you make your first attempt to enter the United  
20 States?

21 A I don't remember.

22 Q Was it years?

23 A No. It was months, but I don't remember.

24 Q Okay. Did you ever discuss going to America --  
25 withdrawn.

*Maria Rosalba - Cross - Mr. Gold*

615

1           On the day you first attempted to cross, you saw  
2 Francisco and Delia in the same group that was attempting to  
3 cross with you, correct?

4     A     Yes, that's true.

5     Q     And were you aware that they were going to be attempting  
6 to cross with you before you got there, or did you first learn  
7 that they were going to be in this group with you when you  
8 arrived?

9     A     When we tried to cross the border, the three of us tried  
10 to do that. We were traveling, you know, together.

11    Q     My question is: When did you learn that Francisco and  
12 Delia were going to attempt to cross the border with you?

13    A     Right when we were at José Francisco's house. We ate  
14 there, we slept there. We practically lived there.

15    Q     My question is very simple: When did you learn that --

16           THE COURT: I think she just tried to answer.

17           MR. GOLD: Can I have it read back, then, because I  
18 misunderstood.

19           THE COURT: She said it was when she was at  
20 Francisco's house, they were all there; they were living there  
21 together.

22           Is that correct?

23           THE WITNESS: Yes.

24    BY MR. GOLD:

25    Q     And how long before you actually attempted the first

*Maria Rosalba - Cross - Mr. Gold*

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1 crossing did you know that Francisco and Delia were coming  
2 with you?

3 A I don't remember.

4 Q Did you have any discussions with Francisco before you've  
5 made -- about crossing illegally into America before you  
6 actually made that first attempt?

7 A No.

8 Q And you never discussed with Francisco before making the  
9 attempt to come to the United States illegally that you were  
10 going to be a prostitute here, correct?

11 A No.

12 Q And Francisco never threatened you to make you become a  
13 prostitute or to -- withdrawn.

14 Francisco never threatened you to make you cross the  
15 border, correct?

16 A No.

17 Q And Francisco never used any force against you to make  
18 you cross the border illegally, correct?

19 A No.

20 Q And when you are saying "no," he didn't do those things,  
21 correct?

22 A Not upon crossing the border.

23 Q Did you ever give Francisco any money?

24 A No.

25 Q Did Francisco ever give you any instructions on how to be

*Maria Rosalba - Cross - Mr. Gold*

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1 a prostitute?

2 A No.

3 Q Did he ever tell you how much to charge clients for your  
4 services?

5 A No.

6 Q You got all of those instructions from Guadalupe, I  
7 believe you said, correct?

8 A Guadalupe, José Osvaldo.

9 Q I'm sorry?

10 A Guadalupe and José Osvaldo.

11 (Continued on the following page.)

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Maria Rosalba - Cross - Gold

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1 CROSS-EXAMINATION

2 BY MR. GOLD (CONTINUING):

3 Q When you attempted to cross the border illegally  
4 Guadalupe was in charge, correct?

5 A Yes.

6 Q She was the --

7 A That's correct.

8 Q -- Sorry. She was the one that was giving the  
9 instructions on how everyone in the group should proceed?

10 A Yes, that's correct.

11 Q And Francisco and Delia were part of this group?

12 A Yes, that's correct.

13 Q And they did what Guadalupe told them to do, correct?

14 A Yes, she was the oldest and she was the one who said what  
15 had to be done.

16 Q When you were in the United States and began working as a  
17 prostitute, I believe you testified that you saw Francisco  
18 only once in a while, correct?

19 A Yes, that's correct.

20 Q How often did you see Delia?

21 A I only saw Delia in some gatherings that they had. And  
22 sometimes when we were working we saw each other through the  
23 delivery guys, sometimes we would go to a house and they were  
24 there.

25 Q And is it fair to say that in the entire time you were in

Maria Rosalba - Cross - Gold

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1 the United States, on those occasions -- withdrawn.

2 Is it fair to say that on the infrequent occasions  
3 that you saw Francisco, he never ordered you to be a  
4 prostitute?

5 A That's correct.

6 Q And at no time when you were in the United States did you  
7 ever give money to Francisco?

8 A No.

9 Q Now you indicated I believe on -- please correct me if my  
10 recollection is wrong -- but that there were lists of drivers  
11 that were maintained so you could do your work. Am I correct  
12 in that?

13 A Yes.

14 Q And did you keep those records?

15 A No, they maintained them.

16 Q And --

17 A And also on the phone.

18 Q I'm sorry?

19 A Also on the phone.

20 Q Okay. And those lists were not in your handwriting,  
21 correct?

22 A No.

23 Q Those lists were kept in the apartment. I should say  
24 were they kept in the apartment?

25 A Yes.

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1 Q And there came a time when you left the apartment and  
2 left the prostitution business as you've described, in what  
3 year was that?

4 A In 2012.

5 Q And when you left, did you take any of these lists with  
6 you?

7 A No.

8 Q Did you maintain any records of money that you earned or  
9 clients that you saw in the prostitution business?

10 A I changed my phone number and I left everything; I wanted  
11 to leave everything behind.

12 Q And since you weren't going to be a prostitute anymore  
13 you certainly had no need or use for any of those lists,  
14 correct?

15 A That's correct.

16 Q You're happy to be living in the United States now,  
17 correct?

18 A I'm happy. I've made my life. I have everything that I  
19 wanted.

20 Q And you want to stay, correct?

21 A I like living in the United States. I like working  
22 honestly. I like helping my family because in Mexico there is  
23 only poverty.

24 Q And in order to stay here legally and not be subject to  
25 possible deportation, as you've described you have to renew

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1 the visa that allows to you stay here on a yearly basis,  
2 correct?

3 A It's a work permit and I do have to renew it every year.

4 Q And you're grateful to the United States Government for  
5 allowing to you stay here, correct?

6 A I'm grateful because not everything is the way that they  
7 told us it was going to be. Perhaps when I came here I was  
8 afraid of the police and I was afraid of everybody because  
9 that's what they encouraged me to feel.

10 MR. GOLD: This is well beyond any question that I  
11 raised.

12 THE COURT: It's not really beyond it, it's a full  
13 answer to the question.

14 MR. GOLD: Fine.

15 Q So you were grateful to the United States Government for  
16 allowing to you stay here?

17 A I am grateful and I feel blessed because there is no  
18 corruption here, and they make people keep the law.

19 Q To your knowledge, has the Government ever opposed your  
20 visa renewal application?

21 THE COURT: I think we've got the point. Can we  
22 move?

23 Q My last question, is it important to you that the United  
24 States permit to you remain here in -- living here with your  
25 family in your new life? That's yes or no.

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1 A I don't understand all of your question. Could you  
2 please repeat it?

3 Q Certainly. Is it important to you that the United States  
4 Government continue to permit you to live here with your  
5 family in your new life?

6 A Yes.

7 MR. GOLD: No further questions.

8 THE COURT: Ms. Kellman?

9 MS. KELLMAN: I have nothing, thank you.

10 THE COURT: Anyone else?

11 MR. HUESTON: Nothing, your Honor.

12 MS. ARGO: The Government has no redirect, your  
13 Honor.

14 THE COURT: Thank you very much. You are excused.  
15 Thank you.

16 (Whereupon, the witness was excused.)

17 MS. HAJJAR: Would your Honor like to break for  
18 lunch now or go for an hour and then break?

19 THE COURT: I think it makes sense to use the hour,  
20 otherwise it will be a tough afternoon.

21 MS. HAJJAR: The Government calls Fabiola.

22 COURTROOM DEPUTY: Please stand and raise your right  
23 hand.

24 (Witness takes the witness stand.)  
25

Fabiola M. - Direct - Hajjar

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1 F A B I O L A M.,

2 called as a witness having been first duly  
3 sworn/affirmed, was examined and testified as  
4 follows:

5 THE COURTROOM DEPUTY: Please state your first name.

6 THE WITNESS: Fabiola.

7 COURTROOM DEPUTY: Please have a seat.

8 MS. HAJJAR: May I begin, your Honor?

9 THE COURT: Yes.

10 DIRECT EXAMINATION

11 BY MS. HAJJAR:

12 Q Good afternoon, Fabiola.

13 A Good afternoon.

14 Q Is the first letter of your middle initial M?

15 A Yes.

16 Q Where were you born?

17 A In Hidalgo.

18 Q Is that in Mexico?

19 A Yes.

20 Q What is your date of birth?

21 A June 17, 1988.

22 Q Do you have siblings?

23 A Yes.

24 Q How many?

25 A In total we're seven.

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1 Q Are you on the older side or younger side or in the  
2 middle?

3 A I'm the third.

4 Q Did you attend school?

5 A Yes.

6 Q Can you describe where you grew up where you went to  
7 school for the jury?

8 A I was born in a small town and I went to boarding school.

9 Q When did you stop attending school?

10 A Around 13.

11 Q Can you explain to the jury what happened after you  
12 stopped attending school?

13 A I went to Mexico City to work.

14 Q What did you do for work?

15 A Cleaning houses.

16 Q Where did you live?

17 A Right there at the same house where I worked.

18 Q How old were you when you came to the United States?

19 A Twenty.

20 Q How did you come to the United States?

21 A I was brought by Rosalio.

22 Q What is Rosalio's full name?

23 A Melendez-Rojas.

24 Q What did you do in the United States after Rosalio  
25 brought you here?

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1 A I, I, he had me prostitute myself.

2 Q Did you want to work as a prostitute?

3 A No.

4 Q Why did you work in prostitution if you didn't want to?

5 A Because he threatened me.

6 Q Do you see Rosalio in the courtroom today?

7 A Yes.

8 Q Can you identify him by an article of clothing or by  
9 where he's sitting?

10 MR. DUNN: I'll stipulate that Mr. Rosalio is in the  
11 courtroom and she identified him.

12 BY MS. HAJJAR:

13 Q Do you know Rosalio Melendez-Rojas by another name?

14 A El Guacho.

15 Q Do you see anybody else in the courtroom that you know?

16 A Miguel.

17 Q Can you identify -- what is Miguel's full name?

18 A Melendez.

19 Q Can you identify Miguel Melendez by an article of  
20 clothing and where he's sitting?

21 A A green sweater.

22 THE COURT: Indicating the defendant Miguel  
23 Melendez-Rojas.

24 Q Do you see anyone else in the courtroom that you know?

25 A Francisco.



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1 Q Do you know Francisco's full name?

2 A No.

3 Q Can you identify Francisco by something he's wearing or  
4 where he's sitting?

5 MR. GOLD: I'll stipulate to the identification.

6 THE COURT: The witness identified Francisco.

7 BY MS. HAJJAR:

8 Q Do you know anyone else in the courtroom, Fabiola?

9 A Abel.

10 Q Do you know Abel's full name?

11 A No.

12 Q Can you identify him by what he's wearing or where he's  
13 sitting?

14 A He's wearing, I don't know like, a purple-ish shirt.

15 THE COURT: What end of the table, is he in the far  
16 end or the near end?

17 THE WITNESS: At the far end.

18 THE COURT: Indicating the defendant.

19 BY MS. HAJJAR:

20 Q Is there someone else in the courtroom that you  
21 recognize?

22 MS. HAJJAR: Do you need to stand up?

23 THE COURT: You're welcome to stand up.

24 A Osvaldo.

25 Q What relationship, if any, does Osvaldo have with

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1 Rosalio?

2 A They are brothers.

3 Q Can you identify Osvaldo by an article of clothing or  
4 where he's seated?

5 MR. GOLUB: I'll stipulate, Judge.

6 THE COURT: The identification is of defendant  
7 Osvaldo.

8 MS. HAJJAR: Thank you, your Honor.

9 BY MS. HAJJAR:

10 Q Fabiola, did there come a time when you stopped working  
11 in prostitution for Rosalio Melendez Rojas?

12 A Excuse me?

13 Q Did there come a time that you stopped working in  
14 prostitution for Rosalio Melendez-Rojas?

15 A Did I stop?

16 Q Did you -- yes, did there come a time that you stopped?

17 A Yes.

18 Q What year was that?

19 A In 2015.

20 Q How did you first meet Rosalio?

21 A At a club in the state of Mexico.

22 Q Where in Mexico?

23 A In Mexico City.

24 Q How did you meet?

25 A Well, I went to, I went out that night. I went to dance.

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1 He was there too. He invited me to dance. We danced all  
2 night. He asked me for my phone number, I gave him my phone  
3 number. And then we ended up talking.

4 Q How old were you?

5 A Twenty.

6 Q What happened after you gave Rosalio your phone number?

7 THE COURT: I think we better take a lunch break.  
8 Could you be back at five minutes past one?

9 (Jury exits the courtroom.)

10 THE COURT: Just to explain, juror number two was  
11 suffering from stomach problems. I thought we better do  
12 lunch.

13 (Lunch recess at 12:15 p.m.)

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## Proceedings

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1           A F T E R N O O N       S E S S I O N

2                       --oo0oo--

3  
4           (In open court.)

5           THE COURT: Juror number two is still sick. Dennis  
6 said he feels very sick and can't sit. Unless somebody  
7 objects, I think we should excuse him. He was not feeling  
8 well yesterday, I was told it is just getting worse.

9           MS. KELLMAN: Does he have fever?

10          THE COURT: No.

11          When the jury gets back up I'm going to have Dennis  
12 bring juror number two in and excuse him and we'll replace  
13 him.

14          MR. DUNN: Dunn I want to bring something to the  
15 Court's attention, I meant to do it at the start of Fabiola's  
16 testimony.

17          But according to the reports there is four possible  
18 instances of potential hearsay that a witness named Karina  
19 told Fabiola something, Alicia told something, and Veronica  
20 Delia. The Veronica Delia and Karina thing relate to my  
21 client, and I just want to let you know that to alert to you  
22 this and --

23          THE COURT: I understand. We can talk about it  
24 right now. Are you ready to do so?

25          MS. HAJJAR: As to Elizabeth Sanchez Carrion, the

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1 witness is going to say that this person gave her instructions  
2 as to how to be a prostitute. And those statements aren't  
3 hearsay. We will elicit what she was told.

4 THE COURT: That's fine.

5 MS. HAJJAR: I don't believe there is any statements  
6 that we're eliciting with respect to Delia and the woman she  
7 knew as Flor, which is Veronica. I can't remember the last  
8 person you mentioned.

9 MR. DUNN: For example Delia told Fabiola that  
10 Rosalio has other women working for him in prostitution.  
11 Delia told Fabiola that Rosalio was the reason she was running  
12 away. Those are two examples.

13 MS. HAJJAR: I'm not eliciting those statements.

14 THE COURT: Anything else?

15 MR. DUNN: Yes. Delia told Fabiola that Rosalio  
16 told her not to talk with Fabiola because he was afraid that  
17 Fabiola would give Delia bad advice.

18 MS. HAJJAR: I'm not eliciting any statements made  
19 to Fabiola by Delia.

20 There is one additional statement from Elizabeth  
21 that I am eliciting, which is that -- if it comes out -- that  
22 the witness will say that upon arrival in the United States  
23 she confronted Elizabeth about why she assisted Rosario  
24 bringing her here. Elizabeth replies, You were stupid and  
25 naive, something like that. And I'm not offering that for its

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1 truth, obviously; I'm offering it for the effect on the  
2 listener to explain what happened next.

3 THE COURT: It won't effect your client.

4 MR. HUESTON: Any other statements that this witness  
5 will be discussing about other co-defendants?

6 MS. HAJJAR: I'll just be very clear, this witness,  
7 she identified your client, Mr. Hueston, but she met him after  
8 she was no longer working in prostitution for Rosalio. I'm  
9 eliciting no statements with respect to your client.

10 MR. HUESTON: In one of the reports it does state  
11 that -- I'll read it: It identified Abel as a cousin of  
12 Rosario, met him in Mexico, had women working in prostitution.

13 MS. HAJJAR: This is information that I understand  
14 she learned after she escaped. So for that reason we're not  
15 eliciting those statements from her.

16 MR. HUESTON: Thank you for that.

17 (Juror No. 2 enters.)

18 THE COURT: Please be seated. I'm so sorry. I  
19 understand that you've been suffering from a stomach ailment  
20 since yesterday.

21 Would you like to be excused as a result of that?

22 JUROR NO.2: Yes, thank you. I apologize,  
23 Your Honor.

24 THE COURT: I hope you feel better. Thank you for  
25 your service.

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1 JUROR NO.2: Thank you.

2 (Juror No. 2 was excused and exited.)

3 (Whereupon, the witness resumes the stand.)

4 (Jury enters the courtroom.)

5 THE COURT: Please be seated. Ladies and gentlemen,  
6 as I suspect you already knew, Juror No. 2 two was suffering  
7 from a stomach ailment and has been very uncomfortable, so we  
8 excused Juror No. 2. I'm going to ask Alternate No. 1 to take  
9 the place of Juror No. 2, and all the alternates to move down.

10 Ms. Hajjar.

11 MS. HAJJAR: Thank you, Your Honor.

12 DIRECT EXAMINATION (continued)

13 BY MS. HAJJAR:

14 Q Fabiola, before lunch you were describing how you first  
15 met Rosalio, what happened after you gave him your phone  
16 number?

17 A Do you mean in Mexico or here?

18 Q Yes, in Mexico.

19 A Oh, he sold it.

20 Q Sorry. Fabiola, you described that you met Rosalio at a  
21 nightclub and that you gave him your phone number; is that  
22 right?

23 A Yes.

24 Q What happened after that?

25 A He would call me every week. And then the following

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1 Sunday he told me he was going to take me to meet his family.  
2 And I agreed, I said yes. And so I did see him that next  
3 Sunday and he took me to Tenancingo.

4 Q Did you know that he lived in Tenancingo.

5 A No.

6 Q Did he tell you where he lived?

7 A He told me he was from Puebla.

8 Q When did you learn that he was from Tenancingo?

9 A When I got there.

10 Q At this moment, Fabiola, can you describe what you  
11 thought of Rosalio?

12 A Nice.

13 Q What were your feelings towards him?

14 A The first thing he did was make me fall for him.

15 Q How did he do that?

16 A That's what they do, they first make you fall for them.

17 MR. DUNN: Objection.

18 Q How did he do that, Fabiola? Can you describe it to the  
19 jury?

20 A He treated me well, he spoke to me nicely, all of that.  
21 He said he was going to be nice with me. That our  
22 relationship was, I'm not sure how to put this, that it was a  
23 serious relationship.

24 Q Did he talk about the future with you?

25 A That's when he said we should go to the United States,



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1 work there in a restaurant. We'd be able to save money, build  
2 a house. He said you can also send money to your family.

3 Q And were these things you wanted?

4 A Yes, because my family is, was, they are very poor and of  
5 course I wanted to help my mother.

6 Q Did you agree to meet Rosalio's family?

7 A Yes.

8 Q How did you get there?

9 A By car.

10 Q How far was it from Mexico City?

11 A About three hours by car.

12 Q Had you ever visited Tenancingo before?

13 A No.

14 Q What happened when you got to Tenancingo?

15 A When we got to Tenancingo he took me to an abandoned  
16 house. There was just one room in it. And that's where I  
17 stayed.

18 Q How long were you there for?

19 A For three or four months.

20 Q Did you meet Rosalio's family while you were there?

21 A No, only one time when I saw his mother, but that was it.

22 Q And what was in the house that you were staying in?

23 A Nothing, it was being built up. There wasn't anything  
24 there.

25 Q Did you leave the house?

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1 A No.

2 Q Why not?

3 A Because he told me not to leave, it was very dangerous  
4 outside.

5 Q Was he with you the entire time?

6 A Not all the time.

7 Q Where was Rosalio?

8 A I don't know. He would say he was going out to work, I  
9 don't know.

10 Q What did you do during the day?

11 A Nothing, I would stay in the house.

12 Q How did you eat?

13 A When he would come he would bring food and he would bring  
14 enough so that I could eat that when he wasn't there, or then  
15 he would come back and he would bring food.

16 Q Were you lonely?

17 A Yes.

18 Q At this time, Fabiola, did you and Rosalio begin a sexual  
19 relationship?

20 A Yes.

21 Q When did that begin?

22 A When he took me to that house.

23 Q Before Rosalio, how many men had you been in a sexual  
24 relationship with?

25 A Just one.

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1 Q While you were in Tenancingo did you have a cellphone?

2 A Yes.

3 Q At this time can you describe what your relationship with  
4 your family was like?

5 A My family?

6 Q Yes.

7 A Okay.

8 Q Did you use your cellphone to call them while you were in  
9 Tenancingo?

10 A No.

11 Q Why not?

12 A Because, well, after that he sold it. So I had no way to  
13 get in touch with them. And plus, where my mother my family  
14 live there is no phone, so it was kind of hard to get in touch  
15 with them.

16 Q Who sold your cellphone?

17 A Rosalio.

18 Q Did you ask him if you could make any phone calls while  
19 you were in Tenancingo?

20 A Yes.

21 Q What, if anything, did he say in response?

22 A That he had no balance.

23 Q Fabiola, you said you came to the United States in 2009;  
24 is that right?

25 A Yes.

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1 Q How old were you at the time?

2 A Twenty.

3 Q Whose idea was it to come to the United States?

4 A Rosalio's.

5 Q What did he tell you about coming to the United States?

6 A Like I said before, he said we should come to the United  
7 States so we could both work in a restaurant.

8 Q Before you met Rosalio, had you ever thought about coming  
9 to the United States?

10 A No.

11 Q What, if anything, did Rosalio tell you about the  
12 restaurant that you were supposed to work in?

13 A He didn't say exactly where it was, all he said was we're  
14 going to be working in a restaurant.

15 Q Did he tell you where the restaurant was in the United  
16 States?

17 A No, all he said was we're going to go to New York.

18 Q Did you agree to travel to the United States?

19 A Yes.

20 Q What was the plan for how to cross the border into the  
21 United States?

22 A He made all of those arrangements, he did that.

23 Q What were the arrangements?

24 A He was the one who talked to the coyotes. And then he  
25 made arrangements with Elizabeth, who according to him, was

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1 his cousin. He told me I would be coming here with her. I'd  
2 be traveling with her to come here. Then he would meet with  
3 me later on in New York.

4 Q How much later on did he say he would be meeting up with  
5 you in New York?

6 A In around three months.

7 Q Can you describe to the jury step by step how you crossed  
8 the border?

9 A He took me from Tenancingo to Puebla. That's where I met  
10 up with Elizabeth, he gave us our plane tickets. And then we  
11 landed somewhere, I don't know where we landed, but we got to  
12 Nogales.

13 Q Fabiola, I'm sorry, when you say "he," who are you  
14 referring to?

15 A Who?

16 Q When you said that he took, he drove us, or he gave us  
17 the plane tickets, who are you referring to by "he"?

18 A Rosalio.

19 Q After that what happened?

20 A After that we arrived in Nogales we went to a house where  
21 there was a good number of people. And then we tried to cross  
22 the border but we were caught by immigration.

23 Q Who were you with this time?

24 A With Elizabeth.

25 Q You made -- you referred to a coyote before, were you

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1 with the coyote?

2 A Yes.

3 Q What happened after your first attempt to cross the  
4 border?

5 A Well, after that immigration let us go and then we tried  
6 to cross again. But immigration caught us again.

7 Q How many times did you attempt to cross the border?

8 A Three times, and immigration stopped us all three times.  
9 We were able to get across on our fourth try.

10 Q For each of these attempts were you with Elizabeth?

11 A Yes.

12 Q When you were stopped by immigration authorities, what  
13 happened?

14 A Well, nothing, they left us in this room overnight. Then  
15 the next day they would let us go.

16 Q At this time when you were attempting to cross the  
17 border, what did you believe was the relationship between  
18 Elizabeth and Rosalio?

19 A Cousins.

20 Q Did you later learn something else about her relationship  
21 with Rosalio?

22 A I found that out when I got here to New York.

23 Q What did you find out?

24 A Well, the thing is he was talking to her all the time.

25 And then I happened to show up at the place where Elizabeth

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1 was living just as a surprise, and he was there.

2 THE INTERPRETER: May the interpreter clarify.

3 He would call her all the time, not talk to her.

4 BY MS. HAJJAR:

5 Q When you saw them together, what did you understand about  
6 their relationship?

7 A That's when I realized they were a couple.

8 Q Did you eventually successfully cross the border,  
9 Fabiola?

10 A Yes.

11 Q How did that happen?

12 A When we crossed the border we ended up in Nogales. From  
13 Nogales we went to Phoenix, Arizona.

14 Q How did you do it? Were you on foot or by car?

15 A I walked.

16 Q Where did you go after you arrived in Phoenix?

17 A After that we went to this house. There were also a good  
18 number of people there. We were there for about a week, and  
19 then we came to New York by car.

20 Q While you were traveling did you know what the costs were  
21 to cross the border?

22 A No.

23 Q And the entire time you were traveling, did you pay for  
24 anything?

25 A No.

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1 Q Did you later learn anything about the costs of travel?

2 A Yes, that was when I got to know. Rosalio told me that  
3 it had cost \$3,000 and I had to pay for that.

4 Q Did he tell you where he got the money?

5 A Yes, his brother lent it to him.

6 Q Did he tell you which brother?

7 A Osvaldo.

8 Q Had Rosalio made any arrangements as to where you would  
9 go when you arrived in New York?

10 A Yes, I think so because when we got here there was  
11 already a room for us.

12 Q Did you personally know anyone in Queens?

13 A What do you mean?

14 Q When you first arrived, Fabiola, did you know anyone in  
15 Queens or in New York generally?

16 A Did I know anybody?

17 Q Yes.

18 A Well, I came to New York to Queens to Van Cleef. I  
19 didn't know anybody when I first came, then I met Miguel,  
20 Osvaldo, Benjy, all of them here.

21 Q Before you arrived in Queens, Fabiola, did you have any  
22 friends or family members in New York?

23 A No.

24 Q Where did you first go in New York?

25 A To Queens, to Corona, to Van Cleef.



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1 Q Is Van Cleef a street in Queens?

2 A Yes.

3 Q Can you describe to the jury what happened after you  
4 arrived in Queens, New York?

5 A When I got to Queens to the house, Elizabeth gave me  
6 money to buy clothing. Well, she went out to buy clothing,  
7 and I stayed with the house.

8 Q What happened next?

9 A Then it was at night when Rosalio called me.

10 Q What did he say?

11 A He said that I should work in prostitution. And I said  
12 that I wouldn't, that I didn't want to.

13 Q How did Rosalio react when you said you didn't want to?

14 A He said that I had to do it.

15 Q What kind of language did he use?

16 A He said you have to do it because if not I'm going to do  
17 something to your family.

18 Q When he said, I'm going to do something to your family,  
19 what did you understand him to be saying to you?

20 A That he was threatening me.

21 Q Can you explain to the jury how you felt in that moment?

22 A I felt very badly.

23 Q Were you upset?

24 A Yes.

25 Q Had Rosalio ever mentioned prostitution to you before?

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1 A No.

2 Q Did you want to work in prostitution after arriving in  
3 New York?

4 A No.

5 Q What happened after the phone call with Rosalio?

6 A And then when he told me that I had to work in that,  
7 Elizabeth was there, and she came and she said to me, Well,  
8 you were really stupid that you believed all that.

9 Q That you believed all what?

10 A About the fact that he wanted something serious with me  
11 when he told me in Mexico that he wanted something that was  
12 serious with me.

13 Q So just to clarify, when Elizabeth told you that you were  
14 really stupid for believing that, you meant believing in a  
15 future with Rosalio?

16 A Yes.

17 Q What happened after she said this to you?

18 A Nothing. I stayed there. I felt destroyed. And I  
19 myself asked, I asked myself why is this happening to me.

20 Q What happened next?

21 A Then nothing. Elizabeth had arranged everything for me  
22 to go and work the next day.

23 Q When you say she arranged everything, what do you mean  
24 what had she done?

25 A That she had called the people for me to go, for me to go

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1 the next day to work.

2 Q At this moment did you know how to work as a prostitute?

3 A No, she explained everything to me.

4 Q What did she tell you?

5 A How to put the condoms on, how much I had to charge, how  
6 much time it was going to be, all that.

7 Q How much were you supposed to charge?

8 A Thirty-five.

9 Q Dollars?

10 A Yes.

11 Q And you say how much time, how much time were you  
12 supposed to spend with clients?

13 A Fifteen minutes.

14 Q Did Elizabeth tell you anything about condoms, how to  
15 transport them?

16 A Yes.

17 Q What did she tell you?

18 A That I should take them out of the packages that they  
19 came in, and I should put all of them in one condom. That's  
20 how I carried them.

21 Q Did you have an understanding of why she was asking you  
22 to transport them this way?

23 A Yes, so they wouldn't realize it. So if we were stopped  
24 by the police, they wouldn't realize we were carrying condoms.

25 Q Can you describe to the jury what happened the first time

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1 you worked as a prostitute?

2 A That day they took me to work. I don't remember where  
3 they took me. That day I did 14 or 15 tickets and that's it,  
4 I don't remember anything else. I didn't -- I wasn't able to  
5 do more.

6 Q When you say 14 or 15 tickets, what do you mean?

7 A That's the number of clients that I saw, 14 or 15  
8 clients.

9 Q Did you arrange for the driver to take you to these  
10 clients?

11 A No.

12 Q Who did?

13 A Elizabeth did. She's the one who sent me with him.

14 Q What happened to the money that you were paid?

15 A I gave it to Osvaldo.

16 Q All of it?

17 A Yes.

18 Q Did some portion go to the driver?

19 A Yes.

20 Q What was the split between Osvaldo and the driver?

21 A It was half for each. If I made 400, it was 200 for the  
22 driver and 200 for Osvaldo.

23 Q Why did you give the money to Osvaldo?

24 A Because Rosalio told me that he was the one I had to give  
25 the money to.

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1 Q What happened when you got home after the first time you  
2 worked as a prostitute?

3 A I came back and I was very sore.

4 Q Did you speak to Rosalio that day?

5 A Yes. I told him that I didn't want to go back to work,  
6 that I was very sore. And he said that I had to go to work.

7 Q Was anything else said on this call?

8 A No. He only said, you no longer have any alternative,  
9 you just have to go out to work.

10 Q What happened the next day?

11 A I went again, I went again.

12 Q Each day you worked, did you continue to give the money  
13 you earned to Osvaldo?

14 A Yes.

15 Q Fabiola, I'd like to show you what's been marked for  
16 identification as Government's Exhibit 101. Do you recognize  
17 what is in this photograph?

18 A Yes.

19 Q What do you recognize it as?

20 A That's where I went the first time when I arrived in the  
21 U.S.

22 MS. HAJJAR: The Government offers Government's  
23 Exhibit 101 and publish it to the jury.

24 THE COURT: Admitted.

25 (Government's Exhibit Number 101 so marked and

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1 received in evidence.)

2 (Government's Exhibit Number 101 is published to the  
3 jury.)

4 BY MS. HAJJAR:

5 Q Is this the address on Van Cleef that you described  
6 earlier?

7 A Yes.

8 Q Was this the first address you stayed at in Queens?

9 A Yes.

10 Q Approximately how long did you live at this address?

11 A About four months.

12 Q Who lived at this address with you?

13 A Osvaldo lived there Benjamin, Benni, and myself, and  
14 Miguel.

15 Q Did anyone else live there?

16 A No.

17 Q You mentioned Miguel, and Osvaldo and Benjamin, what  
18 relationship did they have any with Rosalio?

19 A They are brothers.

20 Q Who is Benni?

21 A Osvaldo's brother.

22 Q You mentioned Elizabeth, where did Elizabeth live?

23 A Right there, she also lived at that house.

24 Q Elizabeth also lived at this address?

25 A Yes.

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1 Q Can you describe the apartment that you lived in?

2 A The entrance for the door is, there are two rooms. And  
3 that's where I stayed in one of the rooms with Elizabeth. And  
4 Osvaldo lived in the other room.

5 Q What about Miguel?

6 A Miguel lived in another apartment.

7 Q When you first arrived, Miguel lived in a different  
8 apartment than you?

9 A Yes. They are separate there.

10 Q Separate apartments?

11 A Yes.

12 Q Do you know who if anyone Miguel lived with?

13 A With Flor.

14 Q Did Flor go by another name?

15 A Flor, that was her name. Flor, that was the name she  
16 used, just that's, she's Veronica.

17 Q Can you explain that to the jury, you say Flor and  
18 Veronica, what do you mean?

19 A Veronica is her real name, and Flor was the name she used  
20 when she worked.

21 Q What did she do for work?

22 A She also worked in prostitution.

23 Q Did there come a time that you lived with Flor?

24 A Yes.

25 Q Based on your own observations who, if anyone, was she

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1 working for?

2 A For Miguel.

3 Q What about Benni, what did she do for work?

4 A Benni was Osvaldo's girl.

5 Q And based on -- what did that mean she was Osvaldo's  
6 girl?

7 A She worked for him.

8 Q As a prostitute?

9 A Yes.

10 MS. HAJJAR: I'd like to show you what is in  
11 evidence as Government's Exhibit 9. May I publish to the  
12 jury?

13 THE COURT: Yes.

14 BY MS. HAJJAR:

15 Q Fabiola, do you recognize the person in Government's  
16 Exhibit 9?

17 A Yes, that's Flor.

18 Q That's the woman who also had the name Veronica?

19 A Yes.

20 MS. HAJJAR: I'd like to show you what is in  
21 evidence as Government's Exhibit 15. May I publish it to the  
22 jury as well?

23 THE COURT: Yes.

24 A Elizabeth.

25 (Continued on the next page.)



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1 DIRECT EXAMINATION

2 BY MS. HAJJAR (continued):

3 Q Government Exhibit Number 15 is Elizabeth?

4 A Yes.

5 Q Do you know Elizabeth's full name?

6 A No.

7 Q You testified, Fabiola, that Elizabeth told you what to  
8 do to work as a prostitute. What did Elizabeth do for work?

9 A She also worked in prostitution.

10 Q And based on your observations who, if any, was she  
11 working for?

12 A For Rosalio.

13 Q How did you feel towards Elizabeth after you arrived in  
14 the United States and -- I'm sorry.

15 A When -- well, we didn't get on well anymore.

16 Q You testified that Veronica went by the name Flor when  
17 she worked. Did Elizabeth go by a different name when she  
18 worked?

19 A Karina.

20 Q At some point, Fabiola, did Rosalio join you in the  
21 United States?

22 A Could I have that again?

23 Q Sure. At some point did Rosalio join you in the  
24 United States?

25 A Yes.

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1 Q And approximately how long had you been working in  
2 prostitution at this point?

3 A For about three or four months.

4 Q Where did you live after Rosalio came to the  
5 United States?

6 A Right there on Van Cleef Street.

7 Q At the same address?

8 A Yes.

9 Q At some point, did she move to a different address on  
10 Van Cleef?

11 A Yes. After Van Cleef we moved to someplace else --  
12 else, 108th and 43rd.

13 Q Before you moved to 108 Street, Fabiola, did you ever  
14 live in a different address on Van Cleef?

15 A I lived there when I first got here. And then when  
16 Rosalio came, we moved maybe three or four houses down.

17 Q Okay. I would like to show you what has been marked  
18 for identification only as Government's Exhibit 102.

19 Do you recognize this photograph?

20 A Yes.

21 Q What do you recognize it as?

22 A That's where we moved to.

23 Q And that's you and Rosalio?

24 A Yes.

25 MS. HAJJAR: The Government offers

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1 Government's Exhibit 102 and ask that it be published to the  
2 jury.

3 THE COURT: Admitted.

4 (Government's Exhibit Number 102 so marked and  
5 received in evidence.)

6 (Government's Exhibit Number 102 is published to  
7 the jury.)

8 Q Fabiola, is this another address you lived at on  
9 Van Cleef?

10 A Yes.

11 Q Okay. Who did you live with at this apartment?

12 A Miguel, Veronica, me, Rosalio and then another older  
13 brother, by the name of Magdaleno.

14 Q Can you describe the apartment you lived in at this  
15 address?

16 A It was on the second floor. It had three rooms.

17 Q Okay. Fabiola, did there come time when you learned  
18 that you were pregnant?

19 A Yes.

20 Q Approximately when was that?

21 A Something like a month after Rosalio came.

22 Q How did you first notice you were pregnant?

23 A Rosalio was the one who noticed my breasts were bigger  
24 and there was liquid coming out of them and he said, You're  
25 pregnant?

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1 Q Were you happy about the pregnancy?

2 A Yes.

3 Q Did you want children?

4 A Yes.

5 Q Can you describe for the jury what happened?

6 A Well, after that, he took me to a clinic to have a  
7 pregnancy test to make sure that I was pregnant. When we  
8 got there, the doctor said yes, I actually was pregnant.  
9 And then Rosalio made arrangements with the doctor for a  
10 procedure to have an abortion.

11 Q How did that happen; can you explain that?

12 A He wanted me to have the abortion right then. He  
13 wanted me to abort the baby right then and there. I didn't  
14 want do that, so I left.

15 Q What happened after that?

16 A After that, he said, Okay, we will have the baby. And  
17 he said, I'm going to get some pills for you to take from  
18 Mexico, folic acid. But instead of that, the pills he gave  
19 me were pills so I would miscarry.

20 Q Did Rosalio give you the pills?

21 A Yes.

22 Q Can you describe what the packaging was?

23 A It was a small bottle. And the pills to make me  
24 miscarry were in there. He told me to take them, I took  
25 them.

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1 Q Did you believe they were folic acid?

2 A Yes.

3 Q What did it say, if anything, on the packaging?

4 A Folic acid.

5 Q What happened after you took the pill?

6 A I started to bleed. And then at about 5:00 in the  
7 morning the pain started coming on stronger. And I was  
8 taken to emergency.

9 Q Did you ask Rosalio about the pills you had taken?

10 A Not right then. I didn't ask him then. Not until  
11 later on. He told me they were pills so I would miscarry.

12 Q How long after did he tell you that?

13 A Later on, like two years later.

14 Q After you miscarried, Fabiola, did you ask Rosalio  
15 about the pill?

16 A He told me they were folic acid pills.

17 Q And two years later, he said something different?

18 A Yes.

19 Q Fabiola, you mentioned earlier that there was a time  
20 where you moved to an address on 108th Street; is that  
21 right?

22 A Yes.

23 Q I would like to show you what has been marked for  
24 identification only as Government's Exhibit 103.

25 Do you recognize this exhibit, Fabiola?

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1 A Yes.

2 Q What do you recognize it as?

3 A That's where we moved into later on, to the second  
4 floor.

5 MS. ARG0: The Government offers  
6 Government's Exhibit 103 and asks to publish it to the jury.

7 THE COURT: Admitted.

8 (Government's Exhibit Number 103 so marked and  
9 received in evidence.)

10 (Government's Exhibit Number 103 is published to  
11 the jury.)

12 Q Which of these -- can you indicate, Fabiola, on  
13 Government's Exhibit 103 where you lived?

14 A Here.

15 Q You can touch the screen.

16 A (Witness complies.)

17 Q That's the second floor of the white house?

18 A Yes.

19 Q And who did you live with at this apartment?

20 A Rosalio, me, Miguel, Veronica and their older brother,  
21 Magdaleno.

22 Q And during this period of time when you lived in Queens  
23 did you continue to work as a prostitute for Rosalio?

24 A Yes.

25 Q Did you want to?

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1 A No.

2 Q Why did you, if you didn't want to?

3 A Because he continued to threaten me.

4 Q What locations did you work in when you were working in  
5 prostitution for Rosalio?

6 A In Brooklyn, Queens, Bronx, Manhattan, Long Island,  
7 Philadelphia, all over the place.

8 Q How many days a week did you work?

9 A All seven days.

10 Q What hours did you work as a prostitute?

11 A 9:00 in the morning until 3:00 or 4:00 in the morning.

12 Q Was that two shifts or a single shift?

13 A Double shift, day and night.

14 Q Did you always work a double shift?

15 A Yes.

16 Q How much sleep were you able to get each night?

17 A Very little.

18 Q When did you eat?

19 A At work, once a day.

20 Q Approximately how many clients did you see each shift?

21 A Per shift, maybe 15, 20 clients, and it was the same at  
22 night.

23 Q Did you have to work if you were sick?

24 A Yes.

25 Q How old were your clients?

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1 A From 25 to 60.

2 Q When Rosalio was in the United States, who made  
3 arrangements for the delivery driver?

4 A Elizabeth -- well, after Rosalio came and I had moved  
5 in with him, Elizabeth had this notebook with all the  
6 numbers and their contact information. So sometimes I would  
7 call them, sometimes Rosalio would say You're going to work  
8 with him, with so and so.

9 Q What did the notebook look like?

10 A A big notebook.

11 Q Did you ever share delivery drivers with other women  
12 working in prostitution?

13 A Yes.

14 Q With who?

15 A Well, with several of them, but the ones I knew, I went  
16 with Delia once and with Flora.

17 Q How much were clients charged while you were?

18 A 35.

19 Q Did you get to keep any of that money?

20 A Well, yes, if it was 35, it was 15 and 15.

21 Q 15 to the driver?

22 A Yes.

23 Q And what happened to the 15 -- the other 15?

24 A Well, we would go out and each person had her own  
25 driver.



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1 Q What happened to the other 15 that didn't go to the  
2 driver?

3 A I would keep them.

4 Q And what happened to that money?

5 A Well, then the rest of the night would go by and I  
6 would give it all to Rosalio.

7 Q Did Rosalio keep track of the money that you made?

8 A No.

9 Q Did he ever check you for money?

10 A No, because he knew I was giving him everything.

11 Q How did he know that?

12 A Because when I took the condoms they were numbered and  
13 he always saw them.

14 Q Can you explain that to the jury?

15 A If I took 25 to 35 and there were five left over, then  
16 he would know how much I had made that night.

17 Q And you're referring to condoms?

18 A Yes.

19 Q Did he check to see how many were left?

20 A Yes.

21 Q Was there ever a time that you tried not to give money  
22 to Rosalio?

23 A I never -- I never -- I never -- I always gave him all  
24 the money.

25 Q Based on your own observations, what, if anything, did

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1 Rosalio do with the money that you earned?

2 A What did Rosalio do with the money?

3 Q Yes.

4 A He liked to buy clothes, jewelry, and besides that he  
5 had a woman called Karina and the gave her everything. He  
6 paid for her apartment, her clothing, everything.

7 Q You testified that Rosalio kept track of the condoms  
8 that you took each night.

9 A Yes.

10 Q What happened when they ran out; how did you get more?

11 A He would get them.

12 Q Where were they kept in the apartment?

13 A In the closet.

14 Q During this period of time, were you ever alone in the  
15 apartment?

16 A Yes, when he left for Mexico.

17 Q When he would -- before he left for Mexico when he was  
18 in the United States, were you ever left alone?

19 A Yes.

20 Q What did you do?

21 A Once I stayed in the house with Flor because I lived  
22 with Flor, and Flor said, We're not going to go work. We're  
23 going to stay at home. And we began to clean the apartment.  
24 They weren't there and they realized that we hadn't gone out  
25 to work and they came back to the house and then they got

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1 really angry.

2 Q Fabiola, are you describing one occasion where you  
3 didn't work?

4 A Yes.

5 Q Okay. And it was an occasion where you and Flor didn't  
6 work that day?

7 A Yes.

8 Q When you say "they came home," who are you referring  
9 to?

10 A To Miguel.

11 Q Miguel came home?

12 A Yes. Miguel and Rosalio came home because we hadn't  
13 gone to work, they were upset.

14 Q What happened?

15 A Well, Miguel gave Flor -- Miguel kicked Flor in the  
16 behind and then they went to the room and then Rosalio and I  
17 went to the room.

18 Q What happened?

19 A Rosalio had me go in the room. He pushed me onto the  
20 bed. And he began yelling at me and all that, and why  
21 hadn't I gone to work and all that.

22 Q How often did Rosalio yell at you?

23 A Each time that I didn't bring him enough money.

24 Q When you were working, Fabiola, did you go by a  
25 different name?

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1 A Yes.

2 Q What was it?

3 A Lourdes.

4 Q And why did you use the name Lourdes?

5 A That's the name Elizabeth gave.

6 Q After Rosalio arrived in the United States, were there  
7 times where you had a problem with a client?

8 A Yes.

9 Q Can you explain to the jury what happened?

10 A I think the client was on drugs, I don't know. He bit  
11 me. And I was so scared because he wouldn't let me get out.  
12 And after that, I left and then the driver took me home. I  
13 told Rosalio to take me to the hospital, but he didn't want  
14 to. And right then and there, he cured me at home and then  
15 I was just there for a week and then I had to go back to  
16 work.

17 Q Can you describe the injury, Fabiola?

18 A Yes. The client yanked out a piece of flesh here. You  
19 could see my teeth right here (indicating).

20 Q Were you bleeding?

21 A Yes.

22 Q Did it leave scar?

23 A Yes.

24 Q And is that the -- you indicated the lower side of your  
25 cheek?

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1 A Yes.

2 Q Was there another time a client hurt while you were  
3 working?

4 A Yes. Another client, he raped me and then he held a  
5 gun to my head.

6 Q Did you tell Rosalio?

7 A Yes.

8 Q How did he react?

9 A Nothing, as if nothing had happen.

10 He said nothing happened to you, you're all right.

11 Q Did you have to work the next day?

12 A Yes.

13 Q Was there another time a client hurt you?

14 A Yes.

15 Q Can you explain what happened?

16 A Yes. There was also a time when a client got upset and  
17 he grabbed me by the neck, and then I began to scream and  
18 there were people in the other room so they opened up and  
19 that's when I was able to leave.

20 Q And when you say people in the other room, who were  
21 these people?

22 A There were neighbors there.

23 Q Were they strangers to you?

24 A Yes.

25 Q How did they get in?

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1 A They knocked the door down.

2 Q Were you able to escape?

3 A Yes.

4 Q Did you tell anyone what happened to you?

5 A I think I told Delia.

6 Q Did you tell the driver?

7 A Yes, I did.

8 Q What did he say?

9 A Nothing. He didn't say anything.

10 Q Fabiola, at this time did you ever try to go to the  
11 police?

12 A No.

13 Q Can you explain to the jury why not?

14 A Because he told me if I went anyway, they were not  
15 going to believe me. And in the second place, he told me  
16 that what I was doing was a crime and if I spoke up, they  
17 were going to put me in jail.

18 Q Did you believe Rosalio?

19 A Yes.

20 Q Fabiola, did this violence have an affect on you  
21 emotionally?

22 A Yes.

23 Q What kind of effect?

24 A Because when I look at myself in the mirror, I see the  
25 scar. It reminds me of everything.

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1 Q Fabiola, I'm going to show you a few pictures. I'm  
2 going to show you what is in evidence as  
3 Government's Exhibit 4.

4 And do you recognize the person in this  
5 photograph?

6 A Yes.

7 Q Who is that?

8 A Francisco.

9 Q Did Francisco have a nickname?

10 A I think that they called him Mojorra.

11 Q I'm showing you Government's Exhibit 7 in evidence. Do  
12 you recognize the picture in Government's Exhibit 7?

13 A Yes.

14 Q Who is it?

15 A That's Guadalupe.

16 Q And what relationship does Guadalupe have to any of the  
17 defendants, if you know?

18 A Miguel, Osvaldo and Rosalio, they're brothers. And  
19 they're her brothers.

20 Q I'm going show you what is in evidence as  
21 Government's Exhibit 12. Do you recognize the person in the  
22 Government's Exhibit 12?

23 A Yes, Delia.

24 Q I'm showing you what's in evidence as  
25 Government's Exhibit 24. Do you recognize this person?

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1 A That's the eldest brother, Magdaleno.

2 Q Okay. Fabiola, earlier you identified the defendant  
3 Francisco. What relationship did he have to Rosalio?

4 A Francisco was Delia's partner.

5 Q And what was the relationship between Francisco and  
6 Rosalio?

7 A Oh, the nephew.

8 Q Francisco was the nephew of Rosalio?

9 A Yes.

10 Q Can you describe for the jury how you met Francisco for  
11 the first time?

12 A I met him because he came to where I lived on 112th.

13 Q Who did he come with?

14 A With Guadalupe.

15 Q Did he come with anyone else?

16 A It was Delia, Francisco and Guadalupe who came.

17 Q And where did they stay?

18 A They stayed where I lived at 112th.

19 Q I'm going to show you what is in evidence as  
20 Government's Exhibit 104.

21 And if I could --

22 MS. HAJJAR: Thank you.

23 Q Do you recognize Government's Exhibit 104?

24 A Yes.

25 Q What is it?



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1 A That's where I used to live on the ground floor.

2 Q And that's the tan building on the left-hand side?

3 A This one (indicating), yes.

4 Q You testified that Delia came with Francisco at this  
5 time to live with you. And how old did she appear to you at  
6 this time?

7 A Both of them were minors, 16, 17, I don't remember.

8 MS. KELLMAN: Move to strike, Your Honor, not  
9 responsive.

10 THE COURT: Yes. Strike that, ladies and  
11 gentlemen. The question was how old did Delia appear to be.

12 THE WITNESS: 16, she was a minor.

13 THE COURT: Thank you.

14 Q And based on your on observations who did Delia work  
15 for, if anybody?

16 A For Francisco.

17 Q And Delia worked as a prostitute for Francisco?

18 A Yes.

19 Q Did you have a nickname, Fabiola?

20 A Another name?

21 Q Not a name for work. Did you have a nickname?

22 A Oh, Delia used to call me Chapparita.

23 Q What does that refer to?

24 A To the fact that I'm short.

25 Q Did Delia call you something else?

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1 A Tia.

2 Q And does Tia mean?

3 A Tia, because she saw me there with Rosalio, so she  
4 thought that I was his aunt.

5 Q Based on your observation, Fabiola, what was the  
6 relationship like between Francisco and his uncle, Rosalio?

7 A It was good.

8 Q Did you ever hear Rosalio say anything to Francisco  
9 about Delia?

10 A Yes. Just this one time, I heard him tell him to tell  
11 Delia to work day and night.

12 Q You heard Rosalio say what to who?

13 A To Francisco. He told him, Francisco, to tell Delia,  
14 to pressure her, to work day and night.

15 Q What did Rosalio do while you were living with him and  
16 Francisco and Delia?

17 A He -- well, all he did was go out to -- you know,  
18 workout.

19 Q Did he work?

20 A No.

21 Q Did there come a time when Rosalio left the  
22 United States?

23 A Yes.

24 Q Where did he go?

25 A To Mexico.

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1 Q And what, if any, communications did you have with  
2 Rosalio while he was in Mexico?

3 A Over the phone, every day, he would call me every day.

4 Q What did he tell you on the phone?

5 A Where are you, what are you doing, are you working?

6 Q Fabiola, did he say anything about your family?

7 A Yes. When he went to Mexico, he went to see my family.

8 Q How do you know that?

9 A Because my mother called me. I called her.

10 Q Did Rosalio tell you that he had visited your family?

11 A Yes.

12 Q What words did he use, what did he say?

13 A Well, when he went to see my family, it was all very  
14 nice. He treated them very well.

15 Q How did it make you feel that he visited your family  
16 while he was in Mexico?

17 A More -- more worried.

18 Q Why?

19 A Because it was a threat. He had threatened to do  
20 something to them. He went and saw them, so I thought to  
21 myself, he is going to come through with what he said. He's  
22 going to go through with what he said.

23 Q While Rosalio was in Mexico, what did you do with the  
24 money that you earned in prostitution?

25 A One time I give gave it to his brother-in-law, and the

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1 other times, I would send it to him.

2 Q Did anyone tell you to do that?

3 A Yes. Him.

4 Q Okay.

5 A Rosalio.

6 Q Fabiola, you said that you lived with Delia for some  
7 period of time. Did there come a time when Delia left?

8 A Yes.

9 Q Can you explain what happened to the jury?

10 A The first time she tried to do it, she just said she  
11 was leaving, and she left. She came back at night. That's  
12 all I know.

13 Q Was there -- did Delia make another attempt to leave?

14 A Yes. A month later, she tried to leave and she never  
15 came back.

16 Q Were you there when she left?

17 A Yes.

18 Q Explain what happened for the jury.

19 A Yes. She just told me she was leaving. She started  
20 gathering up her things. She called a cab and she left.

21 Q Did you encourage her?

22 A I told her to leave, to in fact, leave.

23 MR. GOLD: I'm sorry, I couldn't hear that.

24 THE COURT: Would you court reporter read that  
25 back, please.

Fabiola M. - Direct - Hajjar

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1 (Requested portion read back.)

2 MR. GOLD: Thank you.

3 Q Did there come a time when you left Rosalio?

4 A Yes.

5 Q Can you describe what happened to the jury, please?

6 A I couldn't stand being with him anymore. I couldn't  
7 take it anymore. I was upset with the fact this his other  
8 women existed, they would hit me, I couldn't take it  
9 anymore. Even though he knew how upset I was about these  
10 other women, he never did anything about it. That's when I  
11 made my plan. I saved up a bit of money and I got myself a  
12 room. And once the room was ready, I left.

13 Q And you refer to "other women," Fabiola. What did you  
14 understand these other women to be, who they -- what they  
15 did?

16 A Colombia, as far as I understood, she worked for him,  
17 too.

18 Q As a prostitute?

19 A Yes.

20 Karina, well, she had a child with him. They were  
21 married. He treated her well. He didn't work.

22 Q How do you know that?

23 A He came to where I was living. He came to tell me  
24 everything. He told me everything. Everything I was making  
25 from my work, he was giving to her. That's what Rosalio

Fabiola M. - Direct - Hajjar

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1 told me.

2 Q What happened after you got a room?

3 A So I went to that room, and then he found me a week  
4 later.

5 Q How did he find you?

6 A In the park.

7 Q What happened?

8 A Then he told me to go back with him. So I thought he's  
9 not going to give me a minute of peace, he's never going to  
10 leave me alone. So I went back to him.

11 Q How did you feel towards Rosalio at this time?

12 A I had no way out.

13 Q Did you come up with another way of leaving Rosalio?

14 A After I went back to him, he told me he was planning to  
15 go to Mexico. And that was when I made my plan. I  
16 convinced him that I was going to behave as I should. I  
17 wasn't going to try to escape. And I would send him my  
18 money from what I was doing for work as I always did, and  
19 that's what happened. He left. He went the Mexico. He  
20 left in December. And he called me the day after he got  
21 back to Mexico and that was when I told him I didn't want to  
22 have anything more to ever do with him again. I didn't want  
23 to have anything to do with him. And when I told him I  
24 didn't want to have absolutely anything more to do with him,  
25 he cursed at me. He threatened me. He told me he was going

Fabiola M. - Direct - Hajjar

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1 to go knock down my house. I said I don't care. Do what  
2 you like.

3 Q Did you understand him to be referring to your house in  
4 Mexico?

5 A Yes.

6 Q Your family's house?

7 A Yes.

8 Q Fabiola, you said -- you testified that you convinced  
9 him that you would behave, that you would continue to send  
10 money to Rosalio. Why didn't you just tell him you were  
11 leaving?

12 A Because he wouldn't let me. He would never let do  
13 that.

14 Q And after he called you from Mexico and threatened your  
15 family, did you speak to him again?

16 A No, that was the last time I spoke to him. I didn't  
17 talk to him after that.

18 MS. HAJJAR: May I have one moment, Your Honor?

19 THE COURT: Yes.

20 MS. HAJJAR: No further questions, Your Honor.

21 Thank you.

22 THE COURT: Mr. Dunn?

23 MR. DUNN: Yes, Your Honor.

24 (Pause in proceedings.)

25 CROSS-EXAMINATION

Fabiola M. - Cross - Dunn

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1 BY MR. DUNN:

2 Q Good afternoon.

3 A Good afternoon.

4 Q My name is Thomas Dunn. I'm an attorney. I represent  
5 Rosalio.

6 Now, you met Rosalio at a nightclub, correct?

7 A Yes.

8 Q And over a two-week, three-week period you and he went  
9 out, correct?

10 A One week.

11 Q And where would you meet him when you went out on these  
12 dates?

13 A There were no other dates.

14 Q Well, you were -- withdrawn.

15 Did you ever go out to dinner with him before he  
16 took you to his town?

17 A No.

18 Q So during this one-week period you didn't go out  
19 anywhere; is that correct?

20 A No.

21 Q But during this one-week period, did you see him?

22 A No.

23 Q So you meet him at a nightclub, correct?

24 When is the next time that you meet him?

25 A Yes.



Fabiola M. - Cross - Dunn

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1           The next time I saw him, was the time I was  
2 supposedly supposed to meet his family, which I never did.

3 Q     Well, where did you meet him? That one day, where did  
4 you meet him?

5 A     He came to pick me up near where I lived.

6 Q     You told him where to meet you?

7 A     Yes.

8 Q     Did he know where you worked?

9 A     Not exactly. But he met me kind of near there.

10 Q    So you met him at the nightclub one night, then the  
11 next time you met him was somewhere near your house; is that  
12 correct?

13 A    Yes, where I was working.

14 Q    So he met you where you were working -- withdrawn.

15           The next time you met him at the nightclub you met  
16 him at where you worked; is that correct?

17 A    Yes.

18 Q    And after that meeting near -- at your work, that's  
19 when he asked you to go to his home in Tenancingo; is that  
20 right?

21 A    Yes.

22 Q    And that's when -- is that when you left to Tenancingo,  
23 after he asked you?

24 A    Not Tenancingo, he said it was to Puebla.

25 Q    Okay. But wherever it was on the night or the day he

Fabiola M. - Cross - Dunn

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1 met you where you worked and he asked you to go with you,  
2 that was the same time that you went with him, right after  
3 he asked you; was that correct?

4 A Yes.

5 Q And he had a -- an SUV or a car with him at that time;  
6 is that correct?

7 A A car.

8 Q And you both got in the car and drove off from your  
9 town to what you believed was Puebla; is that correct?

10 A Yes.

11 (Continued on the next page.)

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1 CROSS-EXAMINATION

2 BY MR. DUNN: (Continuing.)

3 Q You never told your parents you were going; is that  
4 right?

5 A No -- yes.

6 Q And he had never seen your house, correct?

7 A No.

8 Q When you got in that car and left with him, he did not  
9 know where you lived; is that right?

10 A Yes.

11 Q In this short period of time where you met him at the  
12 nightclub, he met you at your job, you got in the car and  
13 drove to what you believed was Puebla, had you concluded that  
14 you and he had some kind of a relationship together?

15 A Yes, because he had already asked me to be his  
16 girlfriend.

17 Q And he didn't ask you that on the night of the nightclub;  
18 he asked you when he met you at your place where you were  
19 working, correct?

20 A No, he asked me that over the phone because for the whole  
21 week we were speaking on the phone.

22 Q So at some point in time you got to a town that you  
23 learned was Tenancingo, correct?

24 A (No verbal response.)

25 Q Now, at that point, you still had your own cell phone,

*Fabiola - Cross - Mr. Dunn*

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1 correct?

2 A Yes.

3 Q On the three-hour trip from your town to Tenancingo, did  
4 you make a call to your family?

5 A No.

6 Q So finally you get to Tenancingo, he takes you to a  
7 house, and is it your testimony that you stay there for two,  
8 three, four months; is that your testimony?

9 A Yes.

10 Q And during that period of time, you became angry -- isn't  
11 that correct? -- with him because of the fact that you were  
12 being left by yourself, you hadn't met his family, and you are  
13 stuck in this town, correct?

14 A I didn't get angry with him. I just told him why hadn't  
15 I met his mother and he would say: Later, later. He was  
16 going to take me later.

17 Q To the best of your recollection, how many months did you  
18 spend in Tenancingo?

19 A Four months.

20 Q How often would you speak to him about the fact that you  
21 had never met his family or his mother? How many times during  
22 that period of time would you say you talked to him about  
23 that? Was it every day?

24 A Then afterwards, I met his mother. She was the one who  
25 came to the house, to the abandoned house. She came there.

*Denise Parisi, RPR, CRF*  
*Official Court Reporter*

1 Q I'm going to ask the question again.

2 During this period of time, during the whatever  
3 period -- the several months that you were there, did you  
4 speak to Rosalio each day about the fact that you were not  
5 seeing his mother or any family members?

6 A His mother, I did meet her. She came to see me where I  
7 was staying.

8 Q All right. Let's forget about that one -- withdrawn.  
9 She saw you once, correct?

10 A Yes.

11 Q How long were you there before she came to visit you?

12 A About a month. About after a month.

13 Q During that first month before you saw her, did you speak  
14 to him every day about, "When am I going to meet your mother?"

15 A No.

16 Q Did you talk to him at all during that period of time?

17 A Yes. He took me -- it's not that I said, like, when,  
18 when, but after that, then I never said anything to him again  
19 about that.

20 Q What did you talk about? Like, typically, what did you  
21 talk about when he was gone the entire day and he would come  
22 back to the place? What -- what would you and he talk about?

23 A Nothing.

24 Q Didn't you think that was unusual?

25 A When he came -- he would say that he was going out to

1 work.

2 Q Well, let me ask you this: He comes home at night. He's  
3 wherever he's been, he comes back, you and he -- yes or no --  
4 you and he do not speak?

5 A Yes.

6 Q And was it like that for three months? Was it like that  
7 that you didn't speak -- that he wouldn't speak to you for  
8 three months when he came back from work?

9 A Well, when we were in Mexico, he behaved very well  
10 towards me.

11 Q But he did not speak to you -- correct? -- during this  
12 entire time in his house?

13 MR. DUNN: Do you want me to repeat it?

14 THE INTERPRETER: Yes, please.

15 BY MR. DUNN:

16 Q During this three-month period when you were living with  
17 him and he comes back in the evenings, is it your testimony  
18 that you and he, during that entire time, did not speak?

19 A Well, when he always talked to me, he would say, let's go  
20 to New York, we are going to work over there.

21 Q Over this three- or four-month period that you're there,  
22 did you ever think about leaving while he was away during the  
23 day?

24 A No.

25 Q During this three- or four-month period, did he tell you

1 regularly that he loved you?

2 A Yes.

3 Q Did you ever complain about being left alone or staying  
4 in that town?

5 A He was always very affectionate, like I said. While  
6 they're in Mexico, they behave very well towards you. They  
7 cord you, they treat you well, they say nice things to you,  
8 they say pretty things to you. It's so that you don't leave  
9 him, in other words. The real nightmare is when you arrive  
10 here in the United States.

11 Q At any time during this three- or four-month period when  
12 you were in Tenancingo, did you attempt to contact your  
13 family?

14 A Because I didn't have a phone anymore.

15 Q Did you ever ask: Can you please give me your phone so I  
16 can call my mother?

17 A Yes, but he always said that he didn't have any balance.

18 Q Did you ever see him make a phone call during the three  
19 or four months that you were with him in Tenancingo? Did you  
20 ever see him use a phone where he made a call?

21 A Not in my presence, no.

22 Q When he proposed for you to go to New York, did you want  
23 to go to New York?

24 A Yes, because he spoke nicely to me. He said we were  
25 going to work together; that we were going to work in a

*Fabiola - Cross - Mr. Dunn*

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1 restaurant.

2 Q So you wanted to go to New York; is that correct? Yes or  
3 no.

4 A I thought that...

5 Q Did you ever want to contact your family and let them  
6 know you're going to the United States into New York?

7 A Yes, but I wasn't able to contact them any longer.

8 Q Now, you made three attempts before you were successful  
9 to get to the United States; is that correct?

10 A Yes.

11 Q And you told the federal agents that you would willingly,  
12 voluntarily go back to Mexico; is that correct?

13 A Yes.

14 Q Now, on any of those three times that you were in their  
15 custody, did you say: I have my mother's phone number here.  
16 Would you please call her? I just want to let her know I'm  
17 okay. Did you ever ask that? Yes or no.

18 A No.

19 Q Now, in the beginning when you -- withdrawn.

20 When you were in the United States for the first  
21 time and you're there for several months, Rosalio is not  
22 there, correct?

23 A No.

24 Q And this woman, Elizabeth, tells you that you're going to  
25 work as a prostitute; is that right? Yes or no.



*Fabiola - Cross - Mr. Dunn*

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1 A Rosalio told me.

2 Q Well, did Elizabeth tell you first?

3 A No. Rosalio told me first.

4 Q And you told Rosalio, "I'm not going to do that," right?

5 A Yes.

6 Q And then he started telling you that he loved you; is  
7 that right? Yes or no.

8 A While in Mexico, yes, he did say that he loved me, but  
9 when we were here, he didn't say that any longer.

10 Q He never said it on the telephone?

11 A No.

12 Q Eventually, he comes to New York; is that right?

13 A Yes.

14 Q Several months after you get to New York, right?

15 A Yes.

16 Q Were there times when he was there with you that he told  
17 you he loved you, he wanted you to work so you would make some  
18 money and that you could build a house, but did he tell you  
19 that he loved you?

20 MS. HAJJAR: Objection, Your Honor.

21 THE COURT: I'm sorry, what -- okay.

22 Don't respond yet.

23 MR. DUNN: Want me to break it down?

24 MS. HAJJAR: Objection to form.

25 MR. DUNN: I will do it again.

1           THE COURT: I think it's both compound and -- I'm  
2 not sure how it's advanced beyond anything you have been  
3 doing.

4           MR. DUNN: I'll withdraw, Your Honor.

5 BY MR. DUNN:

6 Q     When he was finally in New York, did you have discussions  
7 where he told you that he loved you?

8 A     No.

9 Q     He yelled at you from time to time; is that right?

10 A    Yes. Yes.

11 Q    He never hit you, did he?

12 A    No, but he would push me. That's it.

13 Q    He pushed you on that one occasion on the bed, right?

14 A    It was about two times.

15 Q    So on two occasions he pushed you; is that right?

16 A    Yes.

17 Q    But he never slapped you; he never punched you, correct?

18 A    No. They don't hit you in the face because that leaves  
19 black and blues, and then if the clients see the black and  
20 blues, then they don't accept you, that's why he didn't hit me  
21 in the face.

22 Q    Now, were there times when you would come back from  
23 seeing your clients where the deliveryman would drop you off  
24 and you would come back to the place where you lived and no  
25 one was there?

*Fabiola - Cross - Mr. Dunn*

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1 A Rosalio was always there.

2 Q You mentioned something about people working out in the  
3 park.

4 Do you remember that?

5 A Uh-huh.

6 Q Would Rosalio work out in the park?

7 A In the morning.

8 Q And would you be back at the house?

9 A No. He would leave when I left to go to work.

10 Q Now, you went -- you had hundreds and hundreds of  
11 clients -- correct? -- that you were taken to?

12 A Excuse me?

13 Q I'll repeat it.

14 You mentioned that you went to see clients. Is it  
15 fair to say that you did that hundreds and hundreds and  
16 hundreds of times? Yes or no.

17 A That I saw clients?

18 Q You saw a lot of clients, right?

19 A Yes.

20 Q You said you saw anywhere from 15 to 30 clients a day; is  
21 that right?

22 A Yes.

23 Q And you worked every day of every month that you were  
24 there, correct?

25 A Yes.

*Fabiola - Cross - Mr. Dunn*

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1 Q Out of all these people that you saw, were there ever any  
2 nice men that happened to be clients? Did you ever see or  
3 meet any nice men that were clients?

4 A No.

5 Q How about drivers? You had a lot of different drivers,  
6 correct?

7 A Yes.

8 Q Did you ever complain to a driver -- any driver -- about  
9 what was going on and you really have to get out of this  
10 business?

11 A No.

12 Q Now, would there be -- withdrawn.

13 Let's talk about going -- some of your clients in  
14 Manhattan.

15 When you would go to Manhattan, were there times  
16 when you would go during the day?

17 A Yes.

18 Q And when you were driving around, did you notice that  
19 there were a lot of people on the street?

20 A Yes.

21 Q Were there occasions when you saw police officers either  
22 standing on a corner or you would see a police car on the  
23 street or a policeman just in general walking on the street?  
24 Did you ever see any of that? Yes or no.

25 A Yes.

*Fabiola - Cross - Mr. Dunn*

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1 Q Were there times when you would go in Manhattan, go into  
2 apartment buildings to see clients in buildings that would  
3 be -- have a number of floors, like six, seven, or eight  
4 floors?

5 A Yes.

6 Q And in some buildings, did you have to know an apartment  
7 number and you buzz a button and be allowed into the building?  
8 Does that ever happen?

9 A The client would be called, I would wait at the door, and  
10 I would be buzzed in and I would go up.

11 Q Okay.

12 Now, would a deliveryman -- delivery fellow or the  
13 driver stay in his car or van?

14 A Yes.

15 Q Were there occasions when you came out of these buildings  
16 and the driver wasn't there?

17 A Not all the -- not all the time, but they're always  
18 pretty on top of things waiting for you to come out.

19 Q So there were occasions when you would come out of these  
20 buildings and you would have to wait for the driver to show  
21 up; is that right?

22 A Yes.

23 Q Yes? I didn't hear the answer. Sorry. Or was there an  
24 answer?

25 A Yes.

*Fabiola - Cross - Mr. Dunn*

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1 Q Thank you.

2 You wanted to get out of this business; you wanted  
3 to get away from Rosalio, correct?

4 A Yes.

5 Q And when you would exit these buildings, you would have  
6 some money; is that right?

7 A Whatever the client had paid me.

8 Q It's money. You had it, correct?

9 A Yes.

10 Q And you wanted to get away -- withdrawn.

11 On any occasion where the driver didn't show up for  
12 a while and you had money, did you ever say to yourself, I'm  
13 running, I'm getting out of here, I'm looking for someone to  
14 help me? Does that ever cross your mind? Yes or no.

15 A I didn't know anybody here. Who was I going to turn to?  
16 I was here all by myself, and plus, I have -- I had \$35 on me.  
17 What was I going to do with \$35? Where was I going to go? I  
18 would end up sleeping on the street.

19 Q You and Delia talked about Delia running away, correct?

20 A She made the decision first. She was the first one to  
21 decide to leave.

22 Q Just -- I'm going to repeat the question. It calls for a  
23 yes or no answer.

24 Did you and Delia speak about Delia running away?

25 A No.

*Fabiola - Cross - Mr. Dunn*

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1 Q You never spoke to Delia about her running away?

2 A No.

3 Q Didn't she tell you she was running away and then she  
4 asked you to come with her?

5 A The first -- no. She just told me right when she was  
6 leaving, "I'm getting out of here."

7 Q And you were there when she called the cab, correct?

8 A Yes.

9 Q And she never said to you, Why don't you come with me  
10 now, we have a chance?

11 A No, because she told me she was going to see some  
12 relatives she had here. That's where she was going to go.

13 Q You mentioned about there were occasions where you saw  
14 clients in Pennsylvania; is that right?

15 A Yes.

16 Q What would you say the longest drive was from where you  
17 lived in Queens to any location that -- to see a client? What  
18 would you say was the longest? Was it over three hours?

19 A Yes.

20 Q And were there times where you -- the driver had to stop  
21 for gas -- withdrawn.

22 Were there times when the driver had to stop for gas  
23 at any kind of location on the highway?

24 A No.

25 Q Never got gas.

1 A No.

2 Q Six-hour roundtrip and never got gas; is that right?

3 A I've only ever been to Pennsylvania, and from here to  
4 Pennsylvania is three hours. That's not so far.

5 Q Did you return from Pennsylvania?

6 A Yes.

7 Q And you never saw the driver get gas.

8 A No.

9 Q Did you --

10 THE COURT: Can we talk at sidebar for a minute?

11 MR. DUNN: Sure.

12 (Sidebar.)

13 (Continued on next page.)

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*Sidebar*

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1 (Sidebar conference held on the record out of the  
2 hearing of the jury.)

3 MR. DUNN: Hi, Judge.

4 THE COURT: I'm afraid you have been covering the  
5 same territory for the last 25 minutes. Can you possibly move  
6 on? They got the point.

7 MR. DUNN: Okay. I understand what you're saying.

8 THE COURT: It just goes on. Thank you.

9 MR. DUNN: That's fine.

10 MS. ARGO: Your Honor, since it's 3:30, is it  
11 possible we can take a break now?

12 THE COURT: We'll take a break now.

13 MS. ARGO: Thank you, Your Honor.

14 (Sidebar end.)

15 (Continued on following page.)

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*Proceedings*

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1 (In open court.)

2 THE COURT: Ladies and gentlemen, I think we have  
3 been sitting for long enough. How about a break?

4 THE COURTROOM DEPUTY: All rise.

5 (Jury exits.)

6 THE COURT: Do you think you can take this time to  
7 go through your outline and -- it seems that if you make -- if  
8 you try to make a point and it's hard, move on, okay?

9 MR. DUNN: I will, Judge.

10 (A recess in the proceedings was taken.)

11 THE COURT: Please be seated.

12 I gather that the last alternate is a Sabbath  
13 observer and must leave at 4:30 tomorrow afternoon. I don't  
14 know how you feel. I would be willing to go along with that.  
15 You probably would be delighted to go along with that.

16 MS. KELLMAN: We would love to stay until 6:00, but  
17 we can agree to let her go. That would be fine, Judge.

18 THE COURT: The same juror indicated that he may  
19 have a hardship problem, he will find out tomorrow, but he  
20 learned that his job may not pay him anything for --

21 MS. KELLMAN: I'm sorry, Judge, what was that?

22 THE COURT: His job.

23 MS. KELLMAN: But which juror?

24 THE COURT: Now it's Alternate Number 5.

25 MS. KELLMAN: The Sabbath observer is 6?

*Proceedings*

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1 THE COURT: No. Same person.

2 MS. KELLMAN: Okay.

3 THE COURT: So we may discover tomorrow that we  
4 ought --

5 MS. KELLMAN: The Sabbath is a problem.

6 THE COURT: The Sabbath won't be the problem, but  
7 something else may be.

8 Mr. Dunn, how long, about, do you think you will be?

9 MR. DUNN: Ten to fifteen, Your Honor, if I get yes  
10 or no answers.

11 THE COURT: In terms of other people's cross,  
12 Mr. Golub?

13 MR. GOLUB: Judge, I don't anticipate cross at this  
14 time.

15 THE COURT: No cross?

16 MS. KELLMAN: I may have very short cross.

17 THE COURT: Anyone else?

18 MR. GOLD: The same, Your Honor.

19 THE COURT: Short cross?

20 MS. KELLMAN: Judge, can we find out what the plan  
21 is after that?

22 THE COURT: Yes.

23 I suppose the other witness.

24 MS. HAJJAR: The next witness will be Delia.

25 MS. KELLMAN: Thank you.

*Fabiola - Cross - Mr. Dunn*

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1 THE COURT: Is someone getting the witness?

2 MS. HAJJAR: Your Honor, she's just in the restroom,  
3 but I think there's -- there's -- there's another witness in  
4 the bathroom, so we're just keeping them apart for a moment.

5 THE COURT: Okay. We'll wait.

6 (Pause.)

7 THE COURT: We're bringing the jury in.

8 (Witness resumes the stand.)

9 THE COURTROOM DEPUTY: All rise.

10 (Jury enters.)

11 THE COURT: Please be seated.

12 Mr. Dunn.

13 BY MR. DUNN:

14 Q I'm going to try to ask some questions that call for yes  
15 or no answers.

16 Do you understand that?

17 A (No verbal response.)

18 Q If you don't understand the question -- I'm sorry.

19 A Okay.

20 Q If you don't understand the question, just let me know  
21 and I'll repeat it or rephrase it.

22 A Okay.

23 Q Now, you began at one point to save -- to try to save  
24 money to get an apartment to leave Rosalio, correct?

25 A Yes.

1 Q And, in fact, you did; you moved out and you got an  
2 apartment, correct?

3 A A room.

4 Q You got a room that you rented out that you paid for,  
5 correct?

6 A Yes.

7 Q And at some point after being away from Rosalio for a  
8 while, you ran into him in a park in Queens, correct?

9 A First he called me.

10 Q You ignored his calls, correct? I mean, you might have  
11 spoken to him, but you ignored them, correct?

12 A Yes.

13 Q How far was this park -- well, withdrawn.

14 How far was the house where you had this room from  
15 where you had previously lived, like, a couple weeks before?

16 A Not very far.

17 Q So at some point in time, you meet him in a park, right?

18 A Yes.

19 Q Was this during the day?

20 A Yes.

21 Q Were there other people in the park?

22 A No.

23 Q What time during the day was it, if you remember?

24 A It was the afternoon.

25 Q Does this park have fields where people can partake in

*Fabiola - Cross - Mr. Dunn*

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1 sports?

2 A Yes, but there were no people there.

3 Q So the only two people in the park were you and Rosalio,  
4 right?

5 A Yes.

6 Q You wanted to get away -- withdrawn.

7 When you left his house and you got this room, you  
8 wanted to stay away from him, correct?

9 A All I really wanted was to get out of there.

10 Q So you wanted to get away from him, right?

11 A Yes.

12 Q You would have hoped never to see him again.

13 A Yes.

14 Q But you agreed to meet him in a park; is that right?

15 A I was in the park and he showed up.

16 Q So it just so happened he came to the park and he spoke  
17 to you and he asked you to come back with him, correct?

18 A Yes.

19 Q By the way, you were the only person in the park before  
20 he arrived, correct?

21 A Yes. I was sitting there in the park and he showed up.

22 Q Why did you go to the park that day?

23 A Because the park -- the park is very close to where I was  
24 living, that's why. I just went in there to sit down.

25 Q And you went back with him, correct?

*Fabiola - Cross - Mr. Dunn*

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1 A Yes.

2 Q After you had made such a big effort to leave, you went  
3 back with him; is that right? Correct?

4 A Because I had no other option.

5 Q You had gotten your own place; is that right?

6 A Yes.

7 Q Now, I would like to direct your attention to July of  
8 2017.

9 Did agents from Homeland Security come to where you  
10 were living at the time?

11 A Yes.

12 Q And they asked you to accompany them to their offices; is  
13 that right?

14 A Yes.

15 Q Did they handcuff you?

16 A No.

17 Q Did they tell you you were under arrest?

18 A No.

19 Q Did -- I'm sorry.

20 Did they tell you that they could arrest you for  
21 being in the country illegally?

22 A No.

23 Q When you were with them on the way to their office, were  
24 you frightened?

25 A Yes.

*Fabiola - Cross - Mr. Dunn*

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1 Q And were you frightened when you were speaking with them  
2 in their offices?

3 A Yes.

4 Q And they told you -- withdrawn.

5 They wanted information from you about what you had  
6 been doing since you had gotten to the United States; is that  
7 correct?

8 A They had already -- they had already investigated  
9 everything.

10 Q They wanted you to talk to them, though, correct?

11 A Yes.

12 Q And they -- I'm sorry, sorry.

13 They wanted to know information from you about the  
14 prostitution that you were involved in; is that correct?

15 A Yes.

16 Q And you advised them that you would cooperate with them;  
17 is that correct?

18 A Yes.

19 Q And they gave you some kind of status that permitted you  
20 to stay in the United States; is that correct?

21 A No.

22 Q They gave you -- did they give you permission to apply  
23 for a work permit?

24 A Yes. But I just have a temporary one.

25 Q Do you ever recall being told about a status that's



*Fabiola - Cross - Mr. Dunn*

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1 called "continued present status"?

2 A No.

3 Q As far as you know, you can stay in the United States  
4 now; is that right?

5 A I don't know.

6 Q Do you fear deportation?

7 A No.

8 Q I would like to step back for a moment.

9 You mentioned that there were a couple of women that  
10 there was representations that they were married to Rosalio;  
11 is that correct?

12 A Just one is married.

13 Q And that was Elizabeth?

14 A No. Karina.

15 Q Well, are Elizabeth and Karina the same person?

16 A No.

17 Q Did Elizabeth tell you that she was in a relationship  
18 Rosalio -- with Rosalio?

19 A Yes.

20 Q Now, Rosalio had told you that he loved you; that he  
21 wanted to marry you; that he wanted to have a family with you;  
22 is that right?

23 A No.

24 Q He never told you that his plan was that you and him  
25 could get married?

*Denise Parisi, RPR, CRF*  
*Official Court Reporter*

1 A No.

2 Q Weren't you upset -- withdrawn.

3 Isn't it a fact that you were upset when you heard  
4 that Karina was married to Rosalio and had a child of his?

5 A No.

6 Q There was a woman that you met, and her name was Esme  
7 Luna; is that the correct pronunciation?

8 A I don't know what her name is. I never heard the true  
9 name. I knew her as Colombian.

10 Q Was there a woman that assaulted you on the street that  
11 attacked you?

12 A Yes.

13 Q And this was a woman that you met through the  
14 prostitution business, correct?

15 A I met her because she was Rosalio's woman.

16 Q And she is jealous of you; is that correct?

17 A I don't know if she was jealous of me, but he hit me --  
18 excuse me -- but she hit me, and what Rosalio did was run  
19 away.

20 Q I'm just asking you a question about her.

21 Isn't it a fact that you told people that she was  
22 extremely jealous of your relationship with Rosalio? Isn't  
23 that a fact?

24 A I don't know. Perhaps yes. I don't know.

25 (Continued on the following page.)

Fabiola M. - Cross - Dunn

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1 CROSS-EXAMINATION

2 BY MR. DUNN: (CONTINUED)

3 Q You told people that she was extremely jealous of you;  
4 isn't that correct?

5 MS. HAJJAR: Objection.

6 Objection, Your Honor.

7 THE COURT: Yes, I'm confused. Did you tell people  
8 that she was extremely jealous of you or did you just think  
9 she was?

10 THE WITNESS: I thought it.

11 THE COURT: Okay.

12 Q And at some point, she attacked you, correct?

13 A Yes.

14 Q And she told you to stay away from Rosalio, right?

15 A She didn't tell me to stay away. She just came and she  
16 grabbed me here and she kicked me.

17 Q And she never said why?

18 A No.

19 Q You never asked her?

20 A No.

21 Q Did you ever sit down later, after it happened, and think  
22 to yourself why it may have happened?

23 A No.

24 Q Do you remember signing a document under penalty of  
25 perjury in which you said that "Rosalio brought me in a house

Fabiola M. - Cross - Dunn

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1 in Tenancingo that was under construction and he told me it  
2 was a house for us to live in together when it was completed  
3 and that we would get married and have a family"?

4 MS. HAJJAR: Objection.

5 THE COURT: Sidebar.

6 (Continued on the next page.)  
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Sidebar

702

1 (The following occurred at sidebar.)

2 MS. HAJJAR: Your Honor, this is not an appropriate  
3 way to -- I don't know exactly what he attempted to elicit.

4 THE COURT: I don't know what he's doing either.

5 MR. DUNN: Okay. Well, Ms. Fabiola said that there  
6 was no discussion about love or marriage or anything like  
7 that, and she signed a declaration. And I think we have the  
8 Spanish copy in which he told her, or that they would get  
9 married and have a family together.

10 THE COURT: So that was the statement?

11 MS. HAJJAR: Yes, except here's the problem:  
12 Mr. Dunn has already elicited that he told in the beginning of  
13 his cross-examination when he started going temporally through  
14 what happened, the witness said yes, he told me, he told me he  
15 loved me, yes, we had a relationship, yes, she said something  
16 like that's what they do. Later on, Mr. Dunn circled back and  
17 he did ask again, Did he tell you that he loved you? And at  
18 this point, my understanding was the witness had -- we had  
19 moved on from the Mexico portion.

20 THE COURT: She already did say.

21 MS. HAJJAR: Mr. Dunn confused her because she said  
22 no. It was evident she already responded to his question.

23 THE COURT: I think that's right. Sometimes the  
24 order of your questions and the nature of the questions, I  
25 mean, you're very hard, going through my mind trying to think

Sidebar

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1 how would I answer this question one way or the other if I  
2 were her.

3 MR. DUNN: I wasn't trying to confuse her, Judge.

4 THE COURT: I know that wasn't intentional. I'm  
5 sorry. I didn't mean that.

6 MR. DUNN: One of the difficult things with the  
7 witness, she can't answer a yes-or-no question. She goes on  
8 and on and on.

9 THE COURT: You know, not necessarily. There are  
10 some questions that are really yes or no. There are others  
11 that are yes because --

12 MR. DUNN: Okay.

13 THE COURT: Okay.

14 (Sidebar conference ends.)

15 (Continued on next page.)

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Fabiola M. - Cross - Kellman

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1 (In open court.)

2 MR. DUNN: I have no further questions, Your Honor.

3 THE COURT: Okay. I guess, Ms. Kellman, it's your  
4 turn.

5 MS. KELLMAN: Thank you, Judge.

6 CROSS-EXAMINATION

7 BY MS. KELLMAN:

8 Q Good afternoon, Fabiola.

9 A Good afternoon.

10 Q My name is Susan Kellman, and I have just a few followup  
11 questions, if I might.

12 A Okay.

13 Q You testified a little while ago that there came a time  
14 in July of 2017 when federal agents came to your -- to the  
15 place where you were living and asked you to accompany them to  
16 their offices, correct?

17 A Yes.

18 Q And you weren't under arrest, correct?

19 A Yes.

20 Q But you told the jury and all of us that you were  
21 frightened, correct?

22 A Yes, because at that moment I thought it was Immigration  
23 and that they were going to report me.

24 Q And that's because you were not legally in the  
25 United States, correct?

Fabiola M. - Cross - Kellman

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1 A Yes.

2 Q But of course, they didn't deport you, correct?

3 A No.

4 Q And they asked you to help them with the investigation  
5 that was on -- with an investigation that was ongoing,  
6 correct?

7 A Yes.

8 Q And they told you that if you wanted bail, that you would  
9 have to tell them the truth, correct?

10 A Yes.

11 Q You understood that, right?

12 MS. KELLMAN: I'm going to move to strike --

13 A Yes, when they talked to me about the --

14 MS. KELLMAN: I'm sorry, Your Honor. I asked a  
15 question. Did she understand that? It's a yes or no.

16 THE COURT: I think she said she didn't, so I don't  
17 think it's yes or no. I think she's explaining. What's the  
18 issue?

19 MS. KELLMAN: I'd like to rephrase the question.

20 THE COURT: All right. Rephrase the question.

21 MS. KELLMAN: I'll withdraw the last question.

22 THE COURT: Okay.

23 Q Did you understand that you had to tell them the truth?

24 A Yes.

25 Q And you understood that they were in a position to help



Fabiola M. - Cross - Kellman

706

1 you stay in the United States, correct?

2 A They didn't talk to me about that.

3 Q But you knew that they were federal agents, correct?

4 A Yes.

5 Q And you knew that you were in the United States

6 illegally, correct?

7 A Yes.

8 Q And you knew from your own experience that on several

9 occasions, you had been at the border and stopped by federal

10 agents and sent back to Mexico, correct?

11 A Yes.

12 Q And that happened on more than one occasion, correct?

13 A Yes.

14 Q So you understood, well understood, that federal agents

15 had the ability to send you out of the country or help you

16 stay in the country, correct? Yes or no?

17 A Yes.

18 Q Now, during the course of this interview, they asked you

19 about your different experiences and observations in

20 connection with this prostitution investigation, correct?

21 A Yes.

22 Q And one of the things that you offered to them was the

23 fact that you knew this fellow Miguel and his girl, I think

24 you called her Veronica, correct?

25 A Yes.

Fabiola M. - Cross - Kellman

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1 Q And you met with these agents twice in July of 2017,  
2 correct?

3 A Yes.

4 Q And at that time, you told the agents that you had been  
5 present at a time when Miguel smacked Veronica in the face,  
6 correct?

7 A Not a slap.

8 Q Well, do you recall being interviewed again by the agents  
9 in December of 2019?

10 A Yes.

11 Q And do you recall at that time that you clarified the  
12 fact that you had misspoken and that Miguel had not, as you  
13 had previously said, smacked Veronica in the face but kicked  
14 her in the behind?

15 A Yes.

16 Q And since you began speaking with the agents in July of  
17 2017, there's been no attempt to deport you from the  
18 United States, correct?

19 A No.

20 Q And after you clarified your misstatements from July of  
21 17 of 2017, there was still no effort to deport you from the  
22 United States, correct?

23 MS. HAJJAR: Objection.

24 MS. KELLMAN: I can rephrase it, Judge.

25 THE COURT: Okay.

Fabiola M. - Cross - Gold

708

1 Q Since your interview in December of 2019, has there been  
2 any attempt to deport you from the United States?

3 A No.

4 MS. KELLMAN: I have nothing further.

5 THE COURT: Anyone have any other questions?

6 Mr. Gold.

7 CROSS-EXAMINATION

8 BY MR. GOLD:

9 Q When you testified this morning, you indicated that when  
10 you met Delia, she was 16 years old; is that right?

11 A Yes.

12 Q Had she ever given you a different age?

13 A No.

14 Q And what year was this that you met her?

15 A I don't remember.

16 Q How long did she and you live in the same apartment,  
17 approximately?

18 A Maybe two or three years, I don't remember.

19 Q Okay. And she was 16 years old. Do you know how old  
20 Francisco was when you first met him?

21 A About seventeen.

22 Q So they were pretty much the same age?

23 A Yes.

24 Q Now, there came a time when you indicated she left the  
25 apartment; do you recall that?

Fabiola M. - Cross - Gold

709

1 A Yes.

2 Q And she left the apartment in the morning, I believe you  
3 said, and then changed her mind and returned back; is that  
4 correct?

5 A Yes, she came back at night.

6 Q And then there came another time when she left  
7 permanently, correct?

8 A Yes.

9 Q How much longer after this first leaving did she finally  
10 leave the apartment for good?

11 A About a month later.

12 Q And when she left, she went around the apartment to pack  
13 up her belongings, correct?

14 A Yes.

15 Q Did you see her pack?

16 A Yes.

17 Q Did she take anything that wasn't hers?

18 A No.

19 Q And before leaving, she called a taxi, correct?

20 A Yes.

21 Q And that was on her cell phone?

22 A Yes.

23 Q Correct me if I'm wrong, but did you say that when she  
24 left, she told you that she was going to be staying at some  
25 relative's house?

Fabiola M. - Cross - Gold

710

1 A Yes.

2 Q Did she indicate who this relative was?

3 A A cousin.

4 Q And was this cousin living in New York as well?

5 A She didn't tell me where he lived.

6 Q There finally came a time when you left, correct?

7 A Yes.

8 Q And when you left, you took all of your belongings,  
9 correct?

10 A Yes, just clothes.

11 MR. GOLD: I have no further questions. Thank you.

12 THE COURT: Okay. Anything else? Mr. Golub?

13 Nothing?

14 MR. GOLUB: Nothing further.

15 MS. HAJJAR: No redirect, Your Honor.

16 THE COURT: Okay. Okay, thank you very much. You  
17 are excused.

18 (Witness Excused.)

19 MS. ARGO: Your Honor, the government calls Delia.

20 (Pause.)

21 **D E L I A,**

22 called as a witness having been first duly  
23 sworn/affirmed, was examined and testified as  
24 follows:

25 THE CLERK: Please state your name for the record.

Delia - Direct - Argo

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1 THE WITNESS: Delia.

2 THE CLERK: She understood.

3 THE COURT: You understood?

4 THE INTERPRETER: Your Honor -- by the  
5 interpreter -- perhaps the government would like to answer  
6 that question.

7 MS. ARGO: Yes, Your Honor.

8 THE COURT: Sidebar.

9 MS. ARGO: Either way, I was going to address it  
10 with the witness directly, if that's all right.

11 THE COURT: Okay. Yes.

12 DIRECT EXAMINATION

13 BY MS. ARGO:

14 Q Delia, I understand that you'd like to testify in English  
15 today. Is English your first language?

16 A No, it's not.

17 Q What is your -- what is English for you?

18 A English is my third language.

19 Q What's your first language?

20 A I speak in My an dialect.

21 Q What is your second language?

22 A Spanish.

23 Q Are you still in the process of learning English?

24 A Yes, I do.

25 Q Because English is your third language, would you like

Delia - Direct - Argo

712

1 the assistance of a Spanish interpreter to stand by to assist  
2 you from time to time?

3 A Yes, I need help.

4 THE COURT: Fine.

5 Q Good afternoon, Delia.

6 A Good afternoon.

7 Q Delia, do you see anybody in the courtroom that you know?

8 A Yes, I do.

9 Q Please identify each person that you know and identify  
10 them by an article of clothing they're wearing or the order in  
11 which they're sitting.

12 A In the right side, there is Abel. He's wearing a blue  
13 shirt with a black jacket.

14 MS. ARGO: Let the record reflect that the witness  
15 identified Abel Romero-Melendez, seated at the end of the  
16 defense counsel table.

17 THE COURT: Yes.

18 A Then in the second line is Francisco Melendez-Perez.

19 MR. GOLD: I'll stipulate to the identification,  
20 Your Honor.

21 THE COURT: Identified.

22 A I see Rosalio sitting down in the third chair.

23 THE COURT: Indicating the defendant.

24 Q Go ahead. Anyone else that you see that you recognize?

25 A Yes. There is Miguel Melendez.

Delia - Direct - Argo

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1 Q Anyone else that you see? You can stand up if you'd  
2 like.

3 THE COURT: Yes.

4 Q Can you see all the way to the front?

5 A Yes, I can see.

6 Q Okay. Do you see anyone else you recognize?

7 A Yes.

8 Q Who do you see?

9 A Jose Osvaldo.

10 THE COURT: Indicating the defendant, Jose Osvaldo.

11 MS. ARGO: Thank you, Your Honor.

12 Q Just going one by one, Delia, let's talk about how you  
13 know each of these individuals.

14 Let's start with Francisco. How do you know  
15 Francisco?

16 A I know Francisco because I met him in Tecamachalco  
17 Puebla, where I grew up.

18 Q What else about him do you know? How is he important to  
19 you?

20 A He was the person who involved me -- who was -- he  
21 promised me that he will take care of me, he'll love me, that  
22 he will keep me safe most of the time. He was one of the  
23 persons who traffic me at the age of 14 years old, while I was  
24 a child.

25 Q What about Rosalio Melendez-Rojas, how do you know him?



Delia - Direct - Argo

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1 A I know him because when I arrived in New York back in  
2 2010, I met him for the first time. He was the one who picked  
3 me up.

4 Q What is his relationship to Francisco, if you know?

5 THE WITNESS: Could you help me with this?

6 A He's Francisco's uncle.

7 Q How about Jose Osvaldo? What relationship does Jose  
8 Osvaldo have to Francisco?

9 A He is Francisco's uncle.

10 Q And how about Miguel Melendez-Rojas, what is his  
11 relationship to Francisco?

12 A He's Francisco's uncle.

13 Q And how about Abel Romero-Melendez, what is his  
14 relationship to Francisco?

15 A He is his uncles' cousin.

16 Q And when you say uncles' cousin, are you referring to  
17 Rosalio Jose Miguel and Jose Osvaldo?

18 A Yes, that's correct.

19 Q Okay. Delia --

20 THE INTERPRETER: Could the interpreter just  
21 correct? It's uncles', plural, cousin.

22 MS. ARGO: Yes, got it.

23 Q Delia, where are you from?

24 A I'm from Mexico.

25 Q How far did you go in school?

Delia - Direct - Argo

715

1 A Sixth grade.

2 Q How old were you when you left school?

3 A Approximately 12, 13 years old.

4 Q When did you come to the United States?

5 A I came into the United States back in 2010, while I was  
6 14 years old.

7 Q Why did you come to the United States?

8 A I came to the United States because Francisco told me  
9 that if we came here, we could be able to earn money and to  
10 have a family and have future, kids and a house.

11 Q And when you came into the United States, can you say  
12 again, how old were you at that time?

13 A I was 14 years old.

14 Q You mentioned earlier that Francisco trafficked you.  
15 What do you mean by that?

16 A When I was 14 years old, Francisco obligate me to work,  
17 to be a sex laborer while I was a child.

18 Q For approximately how long did Francisco force you to be,  
19 as you call it, a sex slave in the United States?

20 A Approximately, three years and a half.

21 Q When did you stop working as a sex slave for Francisco?

22 A I stopped working for him April of 2014, while I was  
23 17 years old.

24 Q When did you first meet Francisco?

25 A I met Francisco for the first time on April of 2010, when

Delia - Direct - Argo

716

1 I was 13 years old.

2 Q How did you meet Francisco?

3 A I met Francisco because a friend introduced me to him.

4 Q Who was this friend?

5 A My friend's name is Rosalba. And one day she mentioned  
6 to me that she was asked by Jose Osvaldo to go on a date and  
7 she didn't want to go by herself, and that he had a friend and  
8 she introduced me to Francisco.

9 Q How did you know Rosalba?

10 A I know Rosalba because we both worked together on an ice  
11 cream shop.

12 Q So what did you decide to do?

13 A Well, at that time, I didn't had friends, and I decide to  
14 met him. And I went with my friend Rosalba and I wait in the  
15 park where I used to wait for the transportation.

16 Q And is that where you met him?

17 A Yes, I met him in a park.

18 Q What happened when you met?

19 A My friend introduced me to Francisco and then she left  
20 with Jose Osvaldo. And I stayed with Francisco and we both  
21 talked together on a bench of the park.

22 Q What did you talk about with Francisco?

23 A He told me at that time that he was 16 years old. And  
24 because of that, I didn't want to look that young and I said  
25 that I was 16 years old as well. That was before my

Delia - Direct - Argo

717

1 14-year-old birthday. And he asked me for my phone number.  
2 At that time, I didn't had a phone. We didn't had that money  
3 to be able to get one. And because of that, he give me his  
4 phone number. He wrote it down on a piece of paper. And  
5 later on, I asked to my friend Rosalba if I could borrow her  
6 phone, and that's how I got in touch with Francisco. And  
7 that's how we get connected to each other.

8 Q And once you got connected with Francisco, did you make  
9 plans to meet up again?

10 A Yes. He asked me to -- if I could meet him again. And  
11 we met a couple times.

12 Q What did you think of Francisco at this time?

13 A Well, at that time I thought that he were handsome, he  
14 were a good looking guy, and of course I liked him.

15 Q How was he towards you? How did he act?

16 A He was nice to me. He would say to me that I was cute,  
17 that I was a nice girl and that he wanted -- he asked me if I  
18 could be his girlfriend.

19 Q Delia, just the month and day, when is your birthday?

20 A My birthday is on May 3rd.

21 Q And so you said you met Francisco in April of 2010?

22 A Yes, that's correct.

23 Q And so you were 13 at that time?

24 A Yes, that's correct.

25 Q And then how soon after you met Francisco did you turn

Delia - Direct - Argo

718

1 fourteen?

2 A A couple days later.

3 Q And then after you had met up with Francisco a few times,  
4 what, if anything, did you decide to do?

5 A There was one of these Saturdays that he asked me if I  
6 could met his family, and I said yes.

7 Q And did you then go to meet his family?

8 A Yes, I went to meet his family. But while we were on our  
9 way to his home, I remember telling him that I was 14 years  
10 old. And at the middle of the road again I said that I was  
11 14 years old, and he said that it was okay.

12 Q And who else was in the car with you when you had this  
13 conversation?

14 A It was my friend Rosalba and Jose Osvaldo and myself, and  
15 Francisco as well.

16 Q And who was driving?

17 A Jose Osvaldo was the one who was driving.

18 Q Did anyone else comment or react on your age?

19 A No. They said nothing at all.

20 Q How long did this trip take to get to Francisco's  
21 family's house?

22 A It was approximately, like, two hours.

23 Q When did Francisco ask you to come to his family's house  
24 in relation to when you first met him?

25 A Can you repeat that one more time, please?

Delia - Direct - Argo

719

1 Q Sure. And if you need help, that's fine, too.

2 When in relation to when you met Francisco did he  
3 ask you to come to his family's home?

4 A I don't remember exactly, but he asked me after a few  
5 dates.

6 Q So when he asked you to come, what did you understand  
7 this to mean?

8 A At that time, I thought that he asked me to live with  
9 him, to go with him and to met his family for the first time.

10 Q Did you expect to stay there?

11 A I didn't expect to stay there at that time because I had  
12 to work to the next day, but it was late when we arrived there  
13 and I couldn't go back.

14 Q What did you think at that point?

15 A I didn't know where I was. I didn't had a phone at all.  
16 And he asked me if I could stay with him that night, and I end  
17 up staying with him.

18 Q And that was just that night at that time; is that right?

19 A That was the first night.

20 Q What happened once you arrived at Francisco's family's  
21 home?

22 A Jose Osvaldo and Rosalba left. And Francisco and I, we  
23 get into the house. And he opened the door, we got into his  
24 room. That first night, Francisco and I had sex, and he  
25 obligate me to have anal sex. It was very painful. I bled a

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1 lot. I still remember seeing the sheets of the bed.

2 Q Did you want to have anal sex?

3 A No.

4 Q What, if anything, did you tell Francisco?

5 A I didn't want to have sex in that way.

6 Q After this, what happened next?

7 A After that, the next day, we get up, and I remember  
8 hearing a voice of a little girl saying "Paco," "Paco." Later  
9 on that day, I find out that it was his sister. And he called  
10 me in, Francisco introduced me to his mom. His mom asked me  
11 what was my name and how old I was, and I told her that I was  
12 14 years old.

13 Q Did you learn what Francisco's mother's name was?

14 A Yes.

15 Q What is it?

16 A Her name is M-a, space, A-n-a.

17 Q How do you pronounce that?

18 A Ma Ana.

19 Q What happened after that?

20 A After I met his family, his mom told me that I had to  
21 clean the restrooms.

22 Q This was right after you had met Francisco's mother?

23 A Yes, that's correct.

24 Q What did you think of that?

25 A I didn't like it, but I felt like I had no choice.

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1 Q Did you want to go home at any point?

2 A Yes.

3 Q Why didn't you go home?

4 A At that time, I felt that Francisco loved me. He bought  
5 me some clothes and he make me feel loved by his family.

6 Q Was there anything going on at home where you had come  
7 from, where you were living --

8 A Yes.

9 Q -- that made you not want to go home?

10 A Yes.

11 Q What was that?

12 A As a little girl, I was sexually abused by my father and  
13 my uncle. And because of that, I thought many numbers of  
14 times about it and I -- because of that situation and how I  
15 felt that Francisco were treating me, I choose to stay with  
16 him.

17 Q Had you ever tried to run away from home before?

18 A Yes, I tried. But I went back home again.

19 Q Now, you said that you met his mother and then she asked  
20 you to start cleaning. What happened next?

21 A They would send me to go to work on the fields. I don't  
22 like at all to work on the fields.

23 Rosalba and I wouldn't see each other that often,  
24 but there was these day where I felt --

25 MR. GOLD: Objection, Your Honor. This is beyond



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1 the question.

2 THE COURT: I'm sorry, I'm having difficulty.

3 MS. ARGO: Your Honor, I simply asked what happened  
4 next.

5 MR. GOLD: Exactly. So what she thought is not --

6 THE COURT: Just wait.

7 Ask the next question.

8 Q So you said you had to work in the fields. What else  
9 kind of work did you have to do?

10 A I -- while I was in their home, I would had to clean,  
11 take care of the kids that they were only 1 year old, between  
12 there. I had to clean. That's the work that they obligate me  
13 to do while I was in their home.

14 Q You mentioned children. Whose children were these?

15 A I learned that those kids were one of Rosalio's kids and  
16 one of the kids of Miguel.

17 Q What did Francisco do while you worked?

18 A He said that he used to work on the fields, but I don't  
19 know what else, what kind of work he was doing.

20 Q Aside from Francisco's mother, who else, if anyone, in  
21 the family did you meet?

22 A I met Benjamin, who is the tio de Francisco.

23 THE INTERPRETER: Who is Francisco's uncle.

24 A The cousins. His cousins. His two sisters, Selene and  
25 Maribel. I met his Aunt Guadalupe. Guadalupe had, at that

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1 time, two kids.

2 Q Did you know at the time where you were?

3 A I didn't know where I was at that point because when I  
4 met Francisco, he told me they were living in Puebla, so I  
5 thought that I was in Puebla.

6 Q Had you ever spent any time outside of your own hometown?

7 A No. It was the first time that I was out from home. At  
8 that time I was 14 years old, so my family didn't allow me to  
9 go out by myself that much.

10 Q What was your relationship with Francisco like at this  
11 time?

12 A It was like his girlfriend at that time who was living  
13 with him. And his family make me feel loved, that he care  
14 about me, that he loved me.

15 Q Had you ever been in a romantic relationship before?

16 A He was my first boyfriend that I had.

17 Q You testified previously that Rosalba and Osvaldo had  
18 traveled with you to Francisco's town. Did you see Rosalba  
19 during this time that you were there?

20 A Yes, I saw her a couple times.

21 Q What was your relationship like with Rosalba during this  
22 time?

23 A We didn't see each other that much. Sometimes they would  
24 come -- she would come with Jose Osvaldo at the house.

25 And there was this time where Rosalba didn't had her

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1 period and I did had mine. A few days later on, she didn't  
2 came for a couple of days and then she showed up and she  
3 mentioned to me that she were bleeding a lot. And I heard the  
4 conversation from Jose Osvaldo and Francisco and other of --  
5 other families, the member of their families there, that he  
6 was making fun of her. She called her La Sin Perro.

7 Q What does that mean?

8 A That means that they had taken her doggies away.

9 Q What did you understand that to mean?

10 A An abortion. What would I understand from that when she  
11 had told me that she was bleeding a lot, that she was in pain.  
12 And she would cry because of that, but she felt like didn't  
13 had option. I didn't know how to react at that time because  
14 it wasn't --

15 MR. GOLD: Objection, Your Honor.

16 A I thought --

17 THE COURT: I don't understand the objection. Do  
18 you think it's going beyond the question?

19 MR. GOLD: Completely.

20 THE COURT: Why don't you keep asking questions.

21 Q What exactly did you hear Jose Osvaldo say about Rosalba  
22 and La Sin Perro, if you can recall?

23 A That after she had lost the doggies, now she had to lose  
24 weight because she was fat. And they called her La Sin Perro,  
25 the one without a puppy, because she had lost a baby.

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1 Q You said that Francisco was present for this  
2 conversation?

3 A Yes, that's correct.

4 Q Who else was present besides Francisco and Jose Osvaldo  
5 and yourself?

6 A It was his grandmother.

7 Q What was his tone when he made this statement?

8 A It was more like nothing and --

9 MR. GOLD: Excuse me. When who made a statement?

10 Q What was Jose Osvaldo's tone when he made this statement?

11 A He was, like, making fun of that. He was making fun of  
12 her and laughing about her because she had lost the doggies.  
13 And I thought that was showing a lack of respect for a person  
14 that you love.

15 Q Where did Rosalba live at this time?

16 A She lived in a different place than I was.

17 Q Where was this place?

18 A The place is near the cemetery in Tenancingo.

19 Q How do you know this?

20 A Because Francisco took me there to see it, them.

21 Q What did the inside of this house look like?

22 A It was empty. The only thing that was, it was a bed.  
23 There was no furniture, there was nothing. There was no  
24 kitchen at all.

25 Q Where did Jose Osvaldo live at this time, if you know?

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1 A He were living with Rosalba.

2 Q Were you able to contact your family at all while you  
3 were in Tenancingo?

4 A Yes, I was able to contact my family, and Francisco give  
5 me a phone. When I called to my mom, I remember that when she  
6 answered, she said, "I have no daughters." And Francisco  
7 were, like, making fun of that, like, oh, she didn't answer  
8 the phone and she saying that she doesn't have a daughter.

9 Q How did that make you feel?

10 A I felt bad and I was crying.

11 Q What, if anything, did you do as a result of that  
12 conversation?

13 A I had to call back again, and Francisco took me to visit  
14 my family.

15 Q Can you describe to the jury what that visit was like?  
16 What did you do?

17 A So Francisco and his mom, Jose Osvaldo, Rosalba, and I  
18 went to visit my family. On our way to the house of my  
19 parents, they stop and got a basket. It contain food with  
20 fruit and alcohol drink. Francisco got one for my mom and  
21 Rosa -- I'm sorry, Jose Osvaldo got one for Rosalba's family  
22 as well.

23 Q Why did Francisco bring this basket of food and alcohol  
24 to your family?

25 A Because in Mexico the tradition is that when you take

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1 your girlfriend to live with you, your family goes and talk to  
2 their family and telling them that you're safe and that  
3 they're living with you and that they don't have to be worry  
4 about it. And if your family accept that, that means that  
5 they accept that person.

6 Q How did the visit go with your parents?

7 A I felt that it went good at that time because they accept  
8 that basket.

9 Q What did Francisco tell your parents?

10 A He told to my parents that I was okay and that I was safe  
11 and that they didn't have to be worry about me.

12 Q What, if anything, did Francisco's mother tell your  
13 parents?

14 A She told to my parents that I was okay, that I was safe,  
15 and that one day we will get married.

16 Q Where did you go next?

17 A After that, we went to visit Rosalba's parents. And Jose  
18 Osvaldo did the same thing. He gave the basket to Rosalba's  
19 parents and they talked that -- about her.

20 THE COURT: Can you move a little bit -- move the  
21 microphone slightly closer to your mouth?

22 Thank you.

23 Q Did you listen to this conversation as well?

24 A Yes, I was there.

25 And also, his -- Rosalba's mom gave to her a bag of

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1 trigo.

2 THE INTERPRETER: Of wheat. A bag of wheat.

3 A So she could be able to make tortillas at -- I don't  
4 remember that much of the conversation at this time. It's  
5 been almost ten years.

6 Q Yes, I understand.

7 You said that Rosalba's parents provided a bag of  
8 wheat to Rosalba?

9 A Yes.

10 Q And that was so she could make tortillas?

11 A Yes, so she could make that. Because now she was living  
12 Jose Osvaldo.

13 Q Did there come a time that you visited your parents  
14 again?

15 A Yes. We went to visit my family. And at that time,  
16 Francisco told me that we had to ask for my documents to my  
17 parents, and I did it.

18 Q What kind of documents are you referring to?

19 A It was my birth certificate and it was a certificate from  
20 school, from sixth grade. And there was some pictures as  
21 well.

22 Q Did Francisco tell you why he needed your documents?

23 A He needed my documents because he wanted to -- he was  
24 going to take me across the border.

25 Q Which border are you referring to?

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1 A From Mexico to the United States.

2 Q What had he told you previously about traveling to the  
3 United States?

4 A He told me that we had to come to the United States  
5 because here in the United States we're going to make money,  
6 earn, to be able to provide to your family. We will have a  
7 house and you will work for a couple of years. Then after  
8 that, we can come back and we can have kids.

9 Q Did he tell you at all -- I'm sorry, strike that.

10 Did Francisco tell you at all what kind of work you  
11 and he would be doing in the United States?

12 A At that time he didn't told me what type of job we were  
13 going to do.

14 Q You mentioned that you went to get your identifying  
15 documents, your identity documents. Did you, in fact, get  
16 those from your parents?

17 A Yes, I did.

18 Q And who actually held on to those documents?

19 A Francisco was the one who got my -- who hold on to my  
20 documents.

21 Q Where are those documents now, if you know?

22 A I don't have those documents because Francisco was the  
23 one who had those documents.

24 Q I'm going to show you what's in evidence as Government's  
25 Exhibit 109.



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1 MS. ARG0: This is already in evidence, so it can be  
2 published to the jury.

3 A I can't see it.

4 Q Hold on just a second.

5 Do you recognize this picture?

6 A Yes. That's the car of Jose Osvaldo. And that's the one  
7 that he used to drive us from Puebla to their home.

8 Q And what else in this picture do you recognize?

9 A In the picture there is the green and brown door. This  
10 is the house of Benjamin, one of the brothers of Rosalio.

11 And there is another house in the left side that  
12 there's green, that there is green. That's from Francisco's  
13 parents.

14 Q And that's the house which you testified previously,  
15 that's where you stayed; is that correct?

16 A Yes, that's correct.

17 Q Okay. I'm now going to show you what's in evidence as  
18 Government's Exhibit 108.

19 MS. ARG0: This can also go to the jury as well.

20 Q Do you recognize Government's Exhibit 108?

21 A Yes, I do.

22 Q What is it?

23 A I see the house of Rosalio and is the one that is in the  
24 color green.

25 Q The green house?

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1 A Yes.

2 And there is a blue one that is in the same area.

3 At that time when I was there, it was white and it was Jose  
4 Osvaldo's house.

5 Q How do you know those things, that those houses belonged  
6 to each of those brothers?

7 A Well, because -- I know that because Francisco used to  
8 say that it was Rosalio's house and that the other one were  
9 Jose Osvaldo's house.

10 Q Delia, but was this blue house, the one that used to be  
11 white, is that where Rosalba was staying?

12 A No. She was staying in a different house, where it's  
13 near the cemetery.

14 Q Have you ever been inside this blue house on the right?

15 A I never was able to be in the inside of the blue house,  
16 but I was able to go inside of the green house one time.

17 Q I want to direct your attention now to July of 2010.  
18 What, if anything, happened then?

19 A In July of 2010, that's when Francisco Guadalupe Rosalba  
20 and I, we attempt for the first time to cross the border  
21 illegally.

22 Q And so can you just describe to the jury how that came to  
23 be? What happened first?

24 A Yes. So we had to take the airplane. And when we  
25 arrived to Hermosillo, there was some Mexican soldiers.

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1 Q Let's back up for one second, Delia. Let's start at the  
2 beginning if we can. What, if anything, did Francisco tell  
3 you about this trip before you left?

4 A He told me that we were going to cross the border and  
5 that we will able to have -- if we would cross the border and  
6 be able to do it, we would come to work here and save money  
7 and then go back again to Mexico.

8 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MS. ARGO (CONTINUED):

3 Q How far was Francisco's town from the border, if you  
4 know?

5 A I don't remember how far it is at this moment.

6 Q How did you plan to get to the border?

7 A Well, José Osvaldo were the one who bought and give us  
8 the flights.

9 Q When you say the flights, do you mean airline tickets?

10 A Yes, that's correct.

11 Q Did you know at the time where you were flying to?

12 A No, I didn't know at that time. It was the first time  
13 that I was going out from my -- out of the -- outside from  
14 the town. I was unable to go out by myself.

15 Q Before these plans were made, did you get any other  
16 kinds of documents, identifying documents?

17 A Yes. José Osvaldo took us to their -- municipal to the  
18 municipal office so we could get IDs, and they had phone  
19 numbers, addresses on them, so in case anything happened,  
20 they would be able to be contacted.

21 Q And then you said José Osvaldo was the one who got the  
22 airline tickets for you?

23 A Yes, that's correct.

24 Q At this time, who had your birth certificate?

25 A It was Francisco who had my birth certificate.

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1 Q Did you know at the time how much this trip to the  
2 border was going to cost?

3 A No.

4 Q Who went with you on this trip to the border?

5 A The person who went with me was Francisco, Rosalio,  
6 Guadalupe was the sister of the brothers Melendez, and  
7 Rosalio and I.

8 Q So what happened on this trip? I think you were  
9 starting to explain that and I made you back up?

10 A Yes, that's correct.

11 So when we arrived to Hermosillo, there was this  
12 Mexican soldiers that they stopped us and asked us where are  
13 you going. And they didn't say nothing. I was the one who  
14 answered, and said, well, we're going to visit my uncle s  
15 and Francisco and we -- we left, and then stay said, Shut  
16 up. Don't say nothing at all from now and on.

17 Q Who said that?

18 A Francisco.

19 Q Did he provide you with any other instructions?

20 A Yes. So then they said -- then Francisco and Guadalupe  
21 said that I wouldn't have -- needed to say nothing at all,  
22 that I have to be quiet if someone would ask me anything she  
23 will be the one who will be answering for me.

24 Q And you said Francisco said this as well as Guadalupe?

25 A Yes, both of them.

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1 Q And so what happened next?

2 A Then I was quiet. We tried to cross to border but we  
3 got lost. And the persons from --

4 Q You can use the interpreter if you need.

5 A The border patrol agent, they arrest us. They had us  
6 all in line. They ask us for all of our information. I  
7 remember giving my first name, but I was told -- Guadalupe  
8 told me that they had to give a different last name and a  
9 different age. At that time I was 14 years old.

10 Q Where did you go after that?

11 A Because we got arrested, we got deported and then we  
12 had to try to cross the border one more time. And Guadalupe  
13 make a phone call and someone sent her money, and we tried  
14 to cross the border again, and it happened the same thing.  
15 We got arrested and we had to go back Tenancingo.

16 Q Do you know Guadalupe called?

17 A She used to be in contact a lot with Rosalio.

18 Q So after this second attempt failed, what happened  
19 next?

20 A We had to go back to Tenancingo. It was the same, they  
21 sent me to work in the fields, which I didn't like it at  
22 all. And after that a couple months later, we attempt to  
23 cross the border again.

24 Q When was that?

25 A It was on October of 2010. I don't remember exactly

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1 the date at this moment.

2 Q Who went on this trip to try to cross the border with  
3 you at this time?

4 A The third time it was Guadalupe, Francisco, and myself.

5 Q And so describe for the jury what happened on that  
6 trip.

7 A That trip, we were able to cross the border. We  
8 arrived in Brooklyn -- in the Bronx. There was the driver  
9 who drop us for Phoenix, Arizona, to the Bronx. And this  
10 driver called one of the brothers Melendez and say that we  
11 were here and that he would want more money so he could  
12 release us. And later on, they arrived there, there was a  
13 black taxi who arrived -- who was inside of this taxi were  
14 Miguel Melendez, there was Rosalio.

15 Q What happened at that point?

16 A At that point, I had to get out from the taxi. I was a  
17 little bit slow. Rosalio got angry and said you should move  
18 really fast. And I got inside of the taxi, all of us, three  
19 of us, Guadalupe, Francisco, myself, Rosalio and Miguel.

20 Q You said that the driver who brought you up to the  
21 Bronx from Arizona wanted more money?

22 A Yes.

23 So they paid for a coyote so they can help us to  
24 cross the border illegally.

25 Q When you say "they," who are you referring to?

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1 A I'm referring to José Osvaldo, Rosalio because they  
2 were the ones who were arranging this.

3 Q You said that you then got in another taxi; is that  
4 right?

5 A Yes, that's correct.

6 Q What happened then?

7 A We got inside of the taxi. We got -- at that time I  
8 didn't know, which now I know that it was in Queens.

9 Q Who was in the taxi with you on your way to Queens?

10 A There was Nelson who was a driver. There was Rosalio,  
11 Miguel, Francisco, myself and Guadalupe.

12 Q Approximately what time was it when you got to Queens?

13 A It was at night.

14 Q Where did you arrive to in Queens, if you know?

15 A So I remember driving towards in an apartment. We  
16 stopped there because I needed to use the bathroom so bad.  
17 And then went into a different house.

18 Q Who was in that house?

19 A In the second house, at that time, there was no one  
20 there. But in this place Rosalio was living there with  
21 Fabiola, that has a scar on her face.

22 Q I'm going to show you what's already in evidence as  
23 Government's Exhibit 10.

24 MS. ARGO: You can show that to the jury as well.

25 Q What's in Government's Exhibit 10, if you know?



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1 A That's Fabiola. That's the one who used to live with  
2 Rosalio and she was working for him.

3 Q I'm now going to show you what's in evidence as  
4 Government's Exhibit 104.

5 Do you recognize what's in  
6 Government's Exhibit 104?

7 A Yes. That's the place where I lived for three years  
8 and a half.

9 Q Delia what happened that next full day after you  
10 arrived in the United States?

11 A Francisco and Rosalio left. They locked me inside of  
12 the house. Francisco provide me these iPhone, iPads and he  
13 told me to memorize a phone number and that's when I was  
14 hungry and needed to call him.

15 There was no food at all. There was no nothing.  
16 So I even remember calling him and saying, I'm hungry. And  
17 then he said okay. I will send you food. Just open the --  
18 there's a window in this house where it has a locker there  
19 was padlock on it. So it was open and the food, which was  
20 Chinese food could be passed through it. And there were  
21 bars, but you can't see in this photograph.

22 Q And can indicate at all where the window was on the  
23 photograph? Okay. Actually draw it, if you would like.

24 A Yes (indicating). That was in the outside in the left  
25 side.

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1 MS. ARGO: Let the record reflect the witness is  
2 indicating the left-hand side of the tan building in  
3 Government's Exhibit 104.

4 Q So that was the first day.

5 What else happened?

6 A They left during those days. I -- I remember asking to  
7 Francisco that what type of job we were going to do. He  
8 said, I don't know. I don't know. And he kept saying that  
9 for a couple days. Then there was a day that he came and  
10 said to me, I find a job where you can make more money what  
11 you earn in a week, you will be able to earn on a day. He  
12 said that I had to sleep with men. At that time I didn't  
13 understand what meant that.

14 Q Who else was there for this conversation?

15 A There was Rosalio.

16 Q What else did Francisco say?

17 A Then he said to me, that that was the only thing that I  
18 could do. And that he -- I -- I got angry at that time  
19 because that's not something that we do, that's not  
20 something that I wanted to do. And he said well, he didn't  
21 insist that night, then he came back again and says to me --  
22 and he said to me, Do you see you don't even speak English  
23 you don't work. If you go outside, the police will arrest  
24 you.

25 At that point I was 14 years old. What can a 14

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1 years old do and think? I was scared. I couldn't even go  
2 and ask for help. I couldn't even walk outside and say,  
3 Hey, can you help me when I know that here in the  
4 United States you need to speak in English to be able to ask  
5 for help.

6 Q Who else was present for this conversation that you  
7 just mentioned?

8 A It was Rosalio who was there as well.

9 Q How did this person -- conversation progress?

10 A So after he said that to me, then he said, Well, if you  
11 don't do this, I will go and kill your family.

12 Q How did you react?

13 A It was hard for me to hear that someone could go and  
14 kill my family. And I knew that Francisco knew where my  
15 family lived and his family knew because Francisco's uncle  
16 José Osvaldo went there as well. So they knew where my  
17 family lived and I didn't want my family to be hurt.

18 Q So what happened at that point?

19 A At that point I felt as a young girl who is 14 years  
20 old, that I have no option, and I had to accept that.

21 Q So once you accepted --

22 A Once --

23 Q -- what he was telling you, what happened next?

24 A Once I accepted that, Fabiola and Rosalio taught me how  
25 to become a prostitute. I didn't know what that meant at

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1 that time. I was 14 years old.

2 Q What, if anything, did Rosalio instruct you?

3 A Rosalio instruct to Fabiola that she will teach me how  
4 to put a condom to -- into the penis of a guy. She told me  
5 that -- and how -- the lubricant I had to use. She told me  
6 that I had to carry with me 20 condoms or more with me, and  
7 that they had to open one of the condoms and open the other  
8 one. And open one and add all of the other condoms in the  
9 same one and leave it under my breast so in case the police  
10 would stop us they don't check a girl or a lady's breast or  
11 anything at all. So they wouldn't even be able to think of  
12 what -- what was going on.

13 Q Who told you?

14 A Rosalba and Rosalio, they were the ones who were  
15 directing me. They told me that I had to make sure that I  
16 had the condoms under my breast.

17 Q Let me just back up for a second. Didn't you say that  
18 it was Fabiola and Rosalio who was present for this  
19 conversation --

20 A Yeah, both --

21 Q -- just so I understand?

22 A Both of them were giving me instructions.

23 Q That's Rosalio and Fabiola?

24 A Yes, that's correct.

25 Q I just wanted to be sure.

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1           What else were you told about how to be a  
2 prostitute?

3       A     Fabiola told me that they had to be in that room with a  
4 client, client? For 15 minutes and I shouldn't take more  
5 than 15 minutes there. That is she taught me -- Fabiola  
6 taught me how to do the position, that I had to do oral sex.  
7 I didn't like that. It made me feel bad. I was 14 years  
8 old.

9       Q     Aside from what had happened to you as a child in your  
10 relationship with Francisco, had you ever had sex before?

11      A     No, I didn't have sex before. I had sex for the first  
12 time with him.

13      Q     How did you know how much to charge?

14      A     Well, Fabiola told me that it was \$35 but if the driver  
15 said that it was more, he will let me know.

16      Q     How did you know how long to work for?

17      A     Because Rosalio provided me a phone and that's how I  
18 used to check how long I had to be inside of that room,  
19 because I'm bad with watch. I can't read that at all, I  
20 need a phone to be able to see the time.

21      Q     How were you supposed to get clients?

22      A     Well, Rosalio gave it to me these notebook that  
23 contains phone numbers of drivers and I had to call them and  
24 say, Hey, they have a girl for this week because I'm looking  
25 where to work. And that's how I used to work, going to work

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1 with these drivers who would drive me around and these  
2 drivers will get calls from these clients, and they will  
3 make sure telling them that, Hey, I have a fresh meat here.

4 Q What do you mean, Hey, I have the fresh meat here?  
5 What did you understand that to mean?

6 A That you're new to this.

7 Q What does that mean?

8 A That you haven't even had -- that you haven't had --  
9 that you're new at this.

10 Q Why was that seen as something that was important or  
11 valuable?

12 A Because when you are new, you don't get -- you're not  
13 used to have sex, your body's small. Your vagina is small.  
14 And those guys who used to pay for younger girls like me who  
15 are 14 years old, love that. And that's how they used to  
16 get clients.

17 MS. ARG0: Your Honor, it's 5:30. This actually  
18 is a good stopping point.

19 THE COURT: Okay.

20 MS. ARG0: Perhaps we can let the jury go.

21 THE COURT: Have a good night, ladies and  
22 gentlemen. Again, just leaves your notes in the jury room  
23 and don't talk about the case.

24 Have a lovely evening.

25 THE COURTROOM DEPUTY: All rise.

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1 (Jury exits the courtroom.)

2 (The following matters occurred outside the  
3 presence of the jury.)

4 (The witness exits the witness stand.)

5 THE COURT: A couple things. First, am I the only  
6 one who is having trouble with understanding her? It could  
7 be just me.

8 MR. GOLD: It's not.

9 MS. ARGO: She can certainly switch back to  
10 Spanish.

11 THE COURT: Can we do that?

12 MS. ARGO: Of course.

13 THE COURT: I would appreciate it. That I think  
14 the court reporter would, too.

15 MS. ARGO: Okay. That's fine.

16 THE COURT: How much longer do you think you'll be  
17 with her?

18 MS. ARGO: I would say about hour and a half, two  
19 hours.

20 THE COURT: Okay.

21 MS. ARGO: Two hours I think would probably be  
22 safe to say.

23 THE COURT: And do we have any sense of  
24 cross-examination? I guess it's Mr. Gold, it might as well  
25 be you.

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1 MR. GOLD: Your Honor, I would imagine it would be  
2 roughly the same time.

3 THE COURT: About two hours.

4 MR. GOLD: With the interpreters.

5 THE COURT: I think it would be clearer for you  
6 when you do that.

7 MR. GOLD: Yes, it is.

8 THE COURT: Okay.

9 MR. GOLD: Judge, I would also like to alert the  
10 Court to a potential problem. I've been speaking with and  
11 consulting with the Government on but I just want to throw  
12 this out here so no one is surprised.

13 Prior to the trial the Government provided all of  
14 us, I'm sure the Court has a copy as well of a series of  
15 summary sheets reflecting wire transfers made by a variety  
16 of defendants, witnesses, including Delia and the other  
17 individuals who testified thus far. They have not obviously  
18 been admitted as evidence as yet. However, there are -- the  
19 sheer numbers that are on these reports are something I wish  
20 to cross-examine the witness about.

21 And my request is that either I be allowed subject  
22 to connection when these charts come in that these are the  
23 actual numbers. I'm not asking anything beyond what is  
24 reflected in various charts and just --

25 THE COURT: Are you cross-examining this witness?



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1 MR. GOLD: Yes.

2 THE COURT: You want to cross-examine Delia about  
3 Delia in the charts?

4 MR. GOLD: Correct. About wire transfers  
5 attributed to her as well as perhaps a few other people.

6 But primarily let's just say to her. I'm not --  
7 the alternative to using these summary charts is we need to  
8 go transaction by transaction off of a CD asking her about  
9 them, and we will be here until the summer. And it serves  
10 no purpose. I don't want to do that. I'm sure the Court  
11 doesn't want me to do that. And the simple solution is  
12 simply to allow me to use these witnesses, I will use  
13 whatever language the Government wants me to use in terms of  
14 referring to these documents, not putting words in their  
15 mouth. These are accumulated records in possession of  
16 the Government. It's summary charts, rather, of the  
17 accumulated records. They're going to be introducing it, I  
18 just want to do it now.

19 THE COURT: Instead of waiting later to call her?

20 MR. GOLD: Yeah, because I can't cross-examination  
21 her on it.

22 THE COURT: Okay.

23 MR. GOLD: And, again, the alternative I have to  
24 play a CD of thousands of wire transfers.

25 THE COURT: Okay. Let me just hear from the

1 Government.

2 MS. ARG0: Your Honor, I guess I'm just a little  
3 unsure as to how this is going to be used. I imagine if  
4 it's to try to refresh her recollection in some way, I mean  
5 Mr. Gold is welcome to try. I just don't know that it will.  
6 If he wants to cross-examination --

7 THE COURT: Well, you'll presumably start with the  
8 questions relating to, did you do any wire transfers in  
9 approximately when and approximately how much.

10 MR. GOLD: Correct.

11 THE COURT: And if she can't remember then you'll  
12 ask if this refreshes her recollection and she will either  
13 say it does or it doesn't.

14 MS. ARG0: The only problem with the summary  
15 spreadsheet, Your Honor, is that actually added up all of  
16 the amounts over a certain amount of time.

17 THE COURT: Right.

18 MS. ARG0: I feel fairly certain in saying that I  
19 don't think Delia has ever sat down with a calculator and  
20 figured out exactly how much money she sent other time.

21 MR. GOLD: Which is exactly my problem and that's  
22 why I want to use the chart.

23 MS. ARG0: I just don't know that she could ever  
24 testify to that or that could be even impeached on that  
25 because it's not something within her realm of knowledge, I

1 guess.

2 If Mr. Gold just wants to establish the fact that  
3 she did, in fact, send wire transfers we can certainly  
4 inquire as to that, but as to the exact amount of like the  
5 dollar amount, I don't think she's going to know.

6 MR. GOLD: Your Honor, let's presume that I know  
7 what I'm doing for a minute.

8 THE COURT: You may well it's just that we're  
9 trying to discuss whether or not it's going to be permitted,  
10 so I need to understand it, too.

11 MR. GOLD: Yes, I get that.

12 But assuming that my reason, which I'm not about  
13 to divulge at this point is relevant, is material and is  
14 admissible, and that had these charts been in evidence  
15 already, the inquiry I'm about to embark upon is  
16 appropriate.

17 If we start from that assumption, the question  
18 then becomes how do we mechanically do this so that I can  
19 refer to documents that are technically not in evidence that  
20 the Government fully intends to offer themselves, you know,  
21 in three days or whenever.

22 THE COURT: I'm sorry, it would really help me a  
23 lot if I understood what you were getting at.

24 MR. GOLD: May I approach *ex parte* and tell the  
25 Judge -- and tell the Court, Your Honor.

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1           THE COURT: What difference is it going to make?  
2 They're not going to talk to her about this anyway. I mean,  
3 it's not like you're disclosing anything extreme. It's 20  
4 minutes of 6:00. This presumably will happen tomorrow and I  
5 would like to understand -- I can't imagine why it has to be  
6 a secret.

7           MR. GOLD: Well, I don't -- for starters, I have  
8 no idea who these people in the audience are and whether any  
9 of them are in contact with the witness, permissibly.

10           THE COURT: Okay. We'll do it at sidebar with  
11 Government Counsel.

12           MR. GOLD: Okay.

13           (Continued on next page.)  
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25

Sidebar Conference

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1 (The following occurred at sidebar.)

2 MR. GOLD: Very simply, Your Honor, there has  
3 already been evidence and I anticipate voluminous other  
4 questions eliciting the same information that this witness  
5 was threatened repeatedly, and had to do prostitution work  
6 or -- under penalty of her parents and family being killed.

7 THE COURT: Right. That's already come out.

8 MR. GOLD: Okay. It has and it will come out 12  
9 more times, if we're lucky.

10 The point is, as the Court will recall, in  
11 December of 2011 until June of 2012, my client and  
12 apparently all the others were back in Mexico for whatever  
13 reason.

14 THE COURT: There was a period of time they were  
15 all gone.

16 MR. GOLD: Right. And she will testify, according  
17 to 3500 material, she will testify that during the time  
18 Francisco was in Mexico, he was in daily -- virtually daily  
19 contact with her --

20 THE COURT: He was in contact with her?

21 MR. GOLD: Yes. During which he was continuously  
22 threatening her and telling her she has to work harder.  
23 She's not doing enough money, she's not doing enough, et  
24 cetera, et cetera, et cetera.

25 THE COURT: Right, right.

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1 MR. GOLD: These records that I specifically want  
2 to refer to, will show that at her working \$250 a shift,  
3 which is what is she will testify to, give or take, that  
4 that was her income. If you divide the amount of money she  
5 sent between December of 2011 and June of 2012 when he was  
6 in Mexico and threatening her daily, I'm going to kill your  
7 family unless you send more money, unless you work harder  
8 I'm going to kill you, I'm going to kill -- it comes out to  
9 about 24 days of work, single shift work.

10 So I think that directly impeaches -- and, of  
11 course, nothing happened to her family.

12 I understand this directly impeaches her claim as  
13 to --

14 THE COURT: So what you're saying is she was  
15 stealing the money?

16 MR. GOLD: No. I'm saying that these records show  
17 that she worked a total 22 days or 24 days. That she did  
18 not work harder, she did not send more money to him. She  
19 just didn't do it, and she will testify that she stopped  
20 working, she stopped calls from the drivers.

21 But the degree to which the numbers change both  
22 before and after completely undermines the concept that she  
23 was working under threat and penalty and under fear of --  
24 for her family's life and her own.

25 So therefore, what I'm looking to do is take their

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1 charts that show these transfers that they attribute to her  
2 okay, and say okay, here it is, it comes out to  
3 5,000-something -- approximately \$5,000 from December until  
4 June. And that -- and the remainder of the year it was only  
5 an additional 5,000. So that whatever these threats were  
6 obviously they didn't take place. And obviously she didn't  
7 take seriously or else she would have worked harder. I did  
8 the math. Again, take a single income shift of \$250 and I  
9 think at that time she worked doubles, but at single shifts  
10 250 just averaging, it came out that she worked a total of  
11 44 point something days for 2011.

12 THE COURT: Is she the only one who is sending  
13 money?

14 MR. GOLD: For her own.

15 MS. HAJJAR: This is something that we spoke to  
16 Mr. Gold about before earlier.

17 The problem is that these charts don't reflect a  
18 comprehensive -- the witness is going to put in these  
19 charts, is going to explain exactly how these records were  
20 put together.

21 How -- how this person identified which records  
22 would be relevant and the witness will explain that there  
23 were 1 or 2 identifying factors as to each wire remitter,  
24 sender and receiver that included that recipient or sender  
25 in this chart.

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1           And that is because sometimes there was an -- it's  
2     either a name or address or sender name and address or some  
3     other identifying factor, in other words --

4           THE COURT: So you're saying those charts are not  
5     comprehensive if they didn't fall within the narrow  
6     categories.

7           MS. HAJJAR: That the witness will explain exactly  
8     how that data was compiled and why the summary chart  
9     reflects what it does.

10          And she will explain what the parameters, why  
11     these specific parameters were chosen and why additional  
12     wire records weren't included or were included. We  
13     explained that if Mr. Gold wants the Government to say, this  
14     is our understanding of exactly how much money was being  
15     sent by a particular victim witness, that's not the case.

16          THE COURT: That's not going to be what it shows.

17          MS. KASSNER: I would say just for clarification  
18     they establish what we consider a floor, not a ceiling.

19          THE COURT: I understand.

20          MS. KASSNER: So there's a real problem.

21          MR. GOLD: Your Honor, and I'm happy --

22          MS. KASSNER: It's a great argument.

23          THE COURT: I'm thinking that maybe this is  
24     something that you want to use -- in other words, maybe you  
25     want to lay -- it's an argument. It doesn't all have to



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1 come out in cross-examination. You need enough in  
2 cross-examination that you can make the argument in closing.

3 MR. GOLD: Yes, but part of being able to make the  
4 argument effectively in closing, we haven't confronted the  
5 witness about this information directly.

6 We're in an *Alice in Wonderland* type of situation  
7 where --

8 THE COURT: I think we are, that's the problem.

9 MR. GOLD: Where the Government -- please, please.  
10 Where the Court is saying I can't do it because the records  
11 they intend to introduce aren't really accurate.

12 THE COURT: No, they're not inaccurate.

13 They're saying that the parameters, the basis on  
14 which they constructed these figures related to a specific  
15 address or a specific name or specific telephone or  
16 something.

17 MS. ARGO: Exactly.

18 THE COURT: So that what they're saying is at  
19 least this much money went, but we had absolutely no idea as  
20 to how much more.

21 I mean, when I looked through those records I  
22 thought to myself, wow, there's lot of extrapolation here.

23 MR. HUESTON: There's one issue and this is more  
24 of a technical issue and this issue is getting ahead of me  
25 because what Mr. Gold is talking about, but in the summary

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1 when they do the designations, they use a symbol V for  
2 victims and I just think -- I was going to the raise that  
3 with them in terms -- I think if you look at in the  
4 spreadsheet, this is different types of designations and one  
5 of them is V, and I was going to ask you to look at it. I  
6 just don't think --

7 MS. KASSNER: We can change that.

8 MR. HUESTON: I don't think it's a big deal, I  
9 just got ahead of me.

10 THE COURT: That's fine. They'll change that.

11 MS. ARGO: And, Your Honor, if Mr. Gold wants to  
12 ask the witness who is going to have the wire transfer  
13 spreadsheet, questions about the same thing, it's fine. I  
14 mean, she's going to explain the parameters of how the  
15 spreadsheet was created.

16 THE COURT: When they go in the parameters will be  
17 explained.

18 The problem is if you conduct the kind of  
19 cross-examination of her witness based on the spreadsheets  
20 that you're planning, it's going to mislead the jury now as  
21 to what the spreadsheets mean.

22 MR. GOLD: Well, first of all the Government is  
23 free to redirect on them and I am willing to use whatever --

24 THE COURT: They can't redirect on it because this  
25 won't be in evidence.

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1 MR. GOLD: I am willing to do, use any language of  
2 their choice to make clear that nothing is being  
3 misrepresented. I will say now these are approximations.  
4 These perhaps are not complete. I will do --

5 I will preface it in whatever way that the Court  
6 and the Government chooses, I just want to confront the  
7 witness.

8 MS. KELLMAN: May I say something?

9 THE COURT: Let me just hear.

10 MS. KASSNER: There's the concern that it will  
11 confuse the jury, but there's separate concern this is going  
12 to confuse the witness into thinking there's something that  
13 we calculated that she's never seen before that's somehow  
14 true or right or accurate and she doesn't -- she's never  
15 seen these spreadsheets. She's never seen these charges.  
16 She's never seen these wire transfer words. She knows what  
17 she did and she can answer questions about what she did, but  
18 confronting her about -- even if you characterize the  
19 spreadsheet, it's misleading.

20 MS. ARG0: And that's the problem, too, is the  
21 redirect does nothing because she can't -- she can't  
22 redirect on it.

23 THE COURT: No, I understand. She can't be  
24 redirected on it, it can't solve the problem.

25 MS. ARG0: Right.

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1 THE COURT: I don't know why there has to be what  
2 I consider misleading confrontation on cross in order for  
3 you to make the argument in summation. I think you can make  
4 the argument. You can cross her, you know, bringing out  
5 that she made these -- you know, that she sent this money  
6 and what the circumstances of that was, you know, all of  
7 that is free, is open to you and appropriate. But if you  
8 start using this spreadsheet, it's going to be confusing.

9 I'm understanding -- thinking we're going to call  
10 her back after the spreadsheet.

11 MR. GOLD: Well, that's what I'm going to have to  
12 do or go through line by line on the CD, transaction by  
13 transaction asking her.

14 MS. ARGO: But that doesn't do any good. It's not  
15 like she's going to remember every single transaction.

16 MR. GOLD: But that's -- what you're saying, but  
17 what's interesting is not a single witness has yet testified  
18 as to how much money they sent. It would have been nice if  
19 we heard something about that instead of having this, well,  
20 here is how I figured I would create this chart.

21 The witness should be asked, they should have  
22 testified as to --

23 THE COURT: If the chart was created that way and  
24 it is their chart and someone will testify how it was  
25 created, then why can't you just take the witnesses'

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1 testimony and take the chart and make an argument.

2 The problem is misleading the jury in  
3 cross-examination and confusing the witness -- I think it  
4 would confuse the witness. I mean that's a lot of what's  
5 happened with these witnesses.

6 MS. HAJJAR: It's the difference between saying,  
7 isn't it true you sent over, whatever, a hundred thousand  
8 dollars to Mexico? And saying, isn't it true the Government  
9 has calculated the amount of money you sent.

10 MR. GOLD: I'm not saying that.

11 MS. HAJJAR: That's the difference.

12 MR. GOLD: I'm not saying that.

13 MS. HAJJAR: You're free to ask the former but the  
14 latter is what we're having a problem with. That's the part  
15 that -- as if we're endorsing this number.

16 MR. GOLD: Again, I'm more than willing to use  
17 whatever language that would avoid that issue.

18 MS. HAJJAR: Just ask for the former question.

19 MR. GOLD: I will ask her very simply, from this  
20 time period to this time period send out X amount of dollars  
21 and she will say, I don't have a clue.

22 MS. KASSNER: And then that's really --

23 MS. ARG0: There's nothing else that could be  
24 done.

25 MR. GOLD: Which brings me back to square one.

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1 THE COURT: Well, it may bring you to square one  
2 but your getting to square two is going to confuse the jury  
3 and confuse the witness.

4 MR. GOLD: If I tell the jury -- hang on -- tell  
5 the witness and the jury that later on there will be an  
6 explanation in detail about how these charts were prepared,  
7 but as these charts show, between this period of time and  
8 this period of time this is what the --

9 THE COURT: Well, you're saying as these charts  
10 go, this. That's not true. They said they prepared charts  
11 that had a floor. The floor is developed from whatever the  
12 criteria were that enabled them to put something into the  
13 chart because either they had an address or something else  
14 that permitted them to put that in. But there were a lot of  
15 things they couldn't put it, they didn't have the  
16 information.

17 MR. HUESTON: Judge, the only thing I would say  
18 about the floor, I don't want to argue too much. In looking  
19 at the record -- this a comprehensive research that they  
20 did.

21 THE COURT: I'm sure they did. But figuring out,  
22 I mean, it's mind-boggling. It's just mind-boggling.

23 MR. HUESTON: I've been looking at it and I agree  
24 it's really difficult. Anyway. But I don't think -- it may  
25 be a fair comment to say, you know, this was a comprehensive

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1 investigation that these HIS did. Look at this money. They  
2 put in name, they put in addresses, they looked at wire  
3 transfers for Mexico, you know, Western Union. I mean,  
4 there must be -- I think it's a fair estimation of maybe 15  
5 different wiring sources.

6 THE COURT: There are a lot of sources.

7 MS. HAJJAR: But here's the key problem. A lot of  
8 the wire records, which I'm sure you've seen, transposed  
9 addresses and have different names, deliberately or no, they  
10 have small changes in addresses, names and other things,  
11 which make it very difficult to identify comprehensively how  
12 many transfers were made from a particular address or a  
13 particular individual because little things were either  
14 deliberately or unintentionally misspelled or changed. So  
15 when you ask the wire transfer company to provide all  
16 records that are transmitted by individuals to a specific  
17 address, we are not able to find a -- get a comprehensive  
18 set of results because of these changes and inaccuracies and  
19 on top of it, the foundation has already said many witnesses  
20 have side, I didn't use my real name and so including  
21 Fabiola testified today she used as fake name. There's  
22 another layer of difficulty.

23 THE COURT: There are a lot of different things  
24 that -

25 MS. ARG0: And, Your Honor, quite frankly, the

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1 biggest problem is how do you explain to the jury what this  
2 chart is? It's not clear. It's not going to be clear to  
3 the jury -- I'm going way too fast.

4 THE COURT: We all are.

5 MS. ARGO: You would think I could slow down a  
6 little bit I'm sorry.

7 But that, you know, the jury's not going to  
8 understand where this chart came from, why it's being shown  
9 to her if she doesn't know what it is. What does it stand  
10 for? It is, in fact, true? It's coming out of nowhere  
11 isn't going to help things, it's going to confuse thing.

12 MR. GOLD: Three days from now it's going to be  
13 explained in full and they'll have --

14 THE COURT: Three days of confusion.

15 MS. KELLMAN: Your Honor, I'm just wondering if  
16 it's possible to call the preparer of the chart out of order  
17 so that we don't have anybody misled and we have an  
18 explanation and then we all make --

19 MS. ARGO: Well, the problem Delia's already on  
20 the stand right now.

21 MS. KELLMAN: Well, that happens all the time in  
22 trial.

23 THE COURT: Well, it wouldn't be the end of the  
24 world if we broke. I realize it's not as smooth.

25 MS. ARGO: Even if it is in evidence, again, this



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1 is a chart that she knows nothing about. We're going to  
2 show her something and tell her that this number represents  
3 something that it, in fact, does not. This is not all of  
4 her wire transactions. It's not a comprehensive look at  
5 every single wire transfer.

6 MR. GOLD: No, it's -- I'm sorry.

7 MS. ARG0: I don't understand what the point of it  
8 would be even if it's already in evidence to try to confront  
9 this witness with something that she didn't author, she  
10 doesn't know anything about, she never sat down with a  
11 calculator and added all these numbers up to figure out how  
12 much money she sent when. And also the fact is the  
13 parameters here are such that there very well might be many,  
14 many more transfers that just didn't get captured within  
15 that number. The point isn't going to be made the way  
16 Mr. Gold wants to make it unless he wants to make it in  
17 closing.

18 MR. GOLD: Again, the representation by the  
19 Government that these charts were prepared through their  
20 best efforts.

21 MS. ARG0: Uh-huh.

22 MR. GOLD: Is not -- that it's not necessarily  
23 reflective of everything, but they did a hell of a lot of --  
24 I'm sorry -- they did an awful lot of work in order to  
25 prepare and accumulate the data and the -- you know, the

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1 full weight and breadth of the Government set about to find  
2 this out and this is what they came up with. How is that  
3 not relevant for me to be able to confront a witness who is  
4 testifying about these very transfers, whose is testifying  
5 about threats that she had to work harder unless she sent  
6 more and she didn't. How do I do that without confronting  
7 her?

8 THE COURT: The problem, I mean, have to accept  
9 the Government's representation about how the charts were  
10 put together. Because at least they know that. So I don't  
11 expect the testimony to be any different.

12 Given what they have been saying to use the charts  
13 as a basis to cross-examine her as a liar when she says  
14 she's not afraid and she's not working as hard as she can  
15 when, in fact, the charts, the way they're created don't  
16 support that, is misleading and it's confusing to the  
17 witness.

18 MR. GOLD: Here's our problem, Judge. None of the  
19 witnesses have testified as to amounts that they've sent.  
20 None of them. And if you ask -- I think this is deliberate  
21 because none of them have a clue what they sent, which I  
22 certainly understand.

23 So what we're left with is the next best thing.

24 THE COURT: Why didn't you ask her how much --

25 MR. GOLD: Because she's going to say, I don't

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1 know. I will ask her, I promise, but I guarantee you the  
2 answer is, I don't have a clue.

3 THE COURT: But she's not going to have a clue  
4 when you confront her with the document.

5 MS. ARG0: Exactly. It won't refresh her  
6 recollection. It won't --

7 THE COURT: It really won't help.

8 MR. GOLD: All right. Forget using the chart  
9 itself.

10 All I want is to use the numbers from the chart  
11 and say something of the effect that if, in fact, the amount  
12 that has been discovered that you are responsible for --

13 THE COURT: No, don't call it the amount from  
14 the --

15 MR. GOLD: Okay. Like I said, I'm open to any  
16 language, any language whatsoever.

17 THE COURT: Could it be X amount.

18 MS. ARG0: That's fine.

19 MR. GOLD: And if she says no.

20 MS. ARG0: Then she says no.

21 THE COURT: Then she says no. You're going to  
22 have the chart in later and do it in summation. You'll be  
23 able to use those figures. Could it be this amount? You'll  
24 argue in summation that's the amount of the Government's  
25 chart. Okay?

Sidebar Conference

765

1 MR. GOLD: We made our arguments upfront. My  
2 record is --

3 THE COURT: I'm trying.

4 MR. GOLD: I appreciate it, Your Honor, it's one  
5 thing to say --

6 MR. HUESTON: The charts are incomplete.

7 THE COURT: I mean, that's where we started that.

8 MR. GOLD: That's what I'm having trouble with.  
9 That the charts aren't necessarily accurate.

10 THE COURT: Exactly. Argue that.

11 MR. GOLD: No, I would prefer to argue the facts  
12 that actually are in evidence. Okay.

13 MR. GOLUB: If by chance we get done tomorrow with  
14 this witness, which we probably won't, is there anybody else  
15 that you'll call next tomorrow is a short day. We're ending  
16 at 4:30.

17 MS. ARGO: We'll probably get maybe like a  
18 custodian or somebody else.

19 MR. GOLD: Not a fact witness. My cross won't be  
20 that much.

21 MS. CISTARO: So tomorrow is not a fact witness.

22 MR. HUESTON: It is Davies.

23 MS. HAJJAR: It could be Davies or the wire  
24 custodian, it could be the CBP person customs and border  
25 protection. Something boring.

Sidebar Conference

766

1 MS. ARG0: Anticlimactic.

2 THE COURT: What a relaxing day.

3 MS. ARG0: Or less harrowing. We'll see how long  
4 it goes tomorrow with this witness.

5 THE COURT: Have a good evening, Your Honor.

6 (Continued on the next page.)

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## I N D E X

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1 (Sidebar ends; in open court.)

2 (Matter adjourned to Friday, March 6, 2020, at  
3 9:30 a.m.)

4

5 *I (we) certify that the foregoing is a correct transcript*  
6 *from the record of proceedings in the above-entitled matter.*

7 /s/ David R. Roy  
8 DAVID R. ROY

5th Day of March, 2020  
Date

8

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I N D E X

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W I T N E S S E S

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## M A R I A R O S A L B A

12

13 CROSS-EXAMINATION (CONTINUED) 559  
BY MR. GOLUB

14 CROSS-EXAMINATION 610  
BY MR. GOLD

15

16 F A B I O L A M.

17 DIRECT EXAMINATION 623  
BY MS. HAJJAR

18

19 CROSS-EXAMINATION 672  
BY MR. DUNN

20 CROSS-EXAMINATION 704  
BY MS. KELLMAN

21

22 CROSS-EXAMINATION 708  
BY MR. GOLD

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## D E L I A

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25 DIRECT EXAMINATION 711  
BY MS. ARGO

I N D E X

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I N D E X (CONTINUED)

E X H I B I T S

Government's Exhibit Number 101	646
Government's Exhibit Number 102	652
Government's Exhibit Number 103	655